

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

GREENVILLE DIVISION

CHARLES BELL, ET AL, Plaintiffs

V.

NO. GC 75-124-S

GREENVILLE POLICE DEPARTMENT, ET AL,  
Defendants

STATE OF MISSISSIPPI for the Use  
and Benefit of ARTHUR JACKSON, a  
minor, by Mary Ann Jackson, his  
next friend, Plaintiff

V.

NO. GC 73-51-S

W. I. HOLLOWELL, ET AL, Defendants

DELTA DIVISION

JAMES WILEY, JR., Plaintiff

V.

NO. DC 76-77-S

DAVID MATHEWS, ETC., Defendant

EASTERN DIVISION

JOHN C. WEAVER, ET AL, Plaintiffs

V.

NO. EC 75-189-S

IRBY L. VANCE, SER., ET AL, Defendants

JOHN C. WEAVER, ET AL, Plaintiffs

V.

NO. EC 75-191-S

JAMES L. GREEN, ET AL, Defendants

JOHN C. WEAVER, ET AL, Plaintiffs

V.

NO. EC 75-190-S

R. C. PAXTON, ET AL, Defendants

MALCOLM E. JACKSON, JR., ET AL, Plaintiffs

V.

NO. EC 75-159-S

THE CITY OF TUPELO, MISSISSIPPI, ET AL,  
Defendants

THOMAS E. DAVIS, Plaintiff

V.

NO. EC 76-19-S

SECRETARY OF HEALTH, ETC., Defendant

QUA MATTIX, ET AL, Plaintiffs

V.

NO. EC 75-149-S

BANK OF MISSISSIPPI, Defendant

ORAN FRAZIER, Plaintiff

V.

NO. EC 75-158-S

DAVID MATHEWS, ETC., Defendant

LENA M. ASHBY, Plaintiff

V.

NO. EC 76-62-S

JOSEPH A. CALIFANO, ETC., Defendant

TERRY WAYNE ADAMS, Plaintiff

V.

NO. EC 77-120-K

LOUIS HARPER, ET AL, Defendants

WESTERN DIVISION

DAISY I. JAMES, Plaintiff

V.

NO. WC 77-28-S

JOSEPH A. CALIFANO, ETC., Defendant

LONNIE L. BLAYLOCK, Plaintiff

V.

NO. WC 77-21-S

JOHN M. JOHNSON, ET AL, Defendants

JAMES CARTER, Plaintiff

V.

NO. WC 76-115-S

LIBERTY CASH, JR., ET AL, Defendants



O R D E R

The above entitled actions, or certain proceedings therein, having heretofore been referred to United States Magistrate J. David Orlansky, said actions are hereby transferred to United States Magistrate Charles M. Powers for proceedings consistent with the original references to Magistrate Orlansky.

So ORDERED, this the 1st day of September, 1977.

  
UNITED STATES DISTRICT JUDGE

GIBSON & NEWLIN  
COUNSELORS AT LAW  
SOUTH NEWBURGER STREET  
BRUCE, MISSISSIPPI 38915

BILLY R. GIBSON  
DONALD F. NEWLIN

February 24, 1977

Honorable Norman L. Gillespie  
Clerk of the Court  
United States District Court  
P. O. Box 727  
Oxford, Mississippi 38655

Re: Blaylock vs Johnson, et al

Dear Mr. Gillespie,

Please find enclosed our Complaint to be filed under the above styled cause. Please find enclosed the following:

1. Cover Sheet;
2. Original and one copy of Complaint for Court file;
3. Eight USM-285 forms to be used in conjunction with service of the necessary summons;
4. Eight copies of Complaint to be served with the summons; and
5. Our check for \$15.00 to cover recording costs.

I would request that the Court cause number be placed on the original and each copy of the Complaint as well as on each of the US Marshall service forms. If you note anything that I have ommitted to do that does need to be done, please advise.

Thank you for your assistance in this matter.

Sincerely yours,



Donald F. Newlin

db

Enclosures

## CIVIL COVER SHEET

## PLAINTIFFS

Lonnie L. Blaylock

## DEFENDANTS

John M. Johnson, John Marlow,  
Gary Moore, M. E. Daves, Billy  
Lancaster, Harry Lee Robinson,  
Edward A. Hammond, Jr., and  
Spence Townsend

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Gibson & Newlin  
P.O. Box 355  
Bruce, Miss. 38915  
  
983-4220

ATTORNEYS (IF KNOWN)

(PLACE AN ☒ IN ONE BOX ONLY)

## BASIS OF JURISDICTION

☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION  
(U.S. NOT A PARTY) ☐ 4 DIVERSITYIF DIVERSITY, INDICATE  
RESIDENCE BELOW.

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

42 USC Section 1983, 1985, 1986, 1988. This civil action for damages  
arises from the assault committed by two Winona policemen, while on  
duty, against the Plaintiff that resulted in physical damages as well as  
numerous violations of rights guaranteed by U. S. constitution.(PLACE AN ☒ IN ONE BOX ONLY)

## NATURE OF SUIT

(PLACE AN ☒ IN ONE BOX ONLY)

| CONTRACT  | TORTS  | ACTIONS UNDER STATUTES   |  |  |
|---|--|--|--|--|
|   |  | CIVIL RIGHTS   | FORFEITURE/PENALTY   | PROPERTY RIGHTS  |
| <input type="checkbox"/> 110 INSURANCE<br><input type="checkbox"/> 120 MARINE<br><input type="checkbox"/> 130 MILLER ACT<br><input type="checkbox"/> 140 NEGOTIABLE INSTRUMENT<br><input type="checkbox"/> 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGEMENT<br><input type="checkbox"/> 190 OTHER CONTRACT<br><input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 AIRPLANE<br><input type="checkbox"/> 315 AIRPLANE PRODUCT LIABILITY<br><input type="checkbox"/> 320 ASSAULT, LIBEL & SLANDER<br><input type="checkbox"/> 330 FEDERAL EMPLOYERS' LIABILITY<br><input type="checkbox"/> 340 MARINE<br><input type="checkbox"/> 345 MARINE PRODUCT LIABILITY<br><input type="checkbox"/> 350 MOTOR VEHICLE<br><input type="checkbox"/> 355 MOTOR VEHICLE PRODUCT LIABILITY<br><input type="checkbox"/> 360 OTHER PERSONAL INJURY<br><input type="checkbox"/> 365 PERSONAL INJURY PRODUCT LIABILITY<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 FRAUD OR TRUTH IN LENDING<br><input type="checkbox"/> 380 OTHER PERSONAL PROPERTY DAMAGE<br><input type="checkbox"/> 385 REAL PROPERTY DAMAGE PRODUCT LIABILITY | <input type="checkbox"/> 441 VOTING<br><input type="checkbox"/> 442 JOBS<br><input type="checkbox"/> 443 ACCOMMODATIONS<br><input type="checkbox"/> 444 WELFARE<br><input checked="" type="checkbox"/> 440 OTHER CIVIL RIGHTS<br><br><b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 VACATE SENTENCE (2255)<br><input type="checkbox"/> 520 PAROLE BRD. REVIEW<br><input type="checkbox"/> 530 HABEAS CORPUS<br><input type="checkbox"/> 540 MANDAMUS & OTHER<br><input type="checkbox"/> 550 CIVIL RIGHTS | <input type="checkbox"/> 610 AGRICULTURE<br><input type="checkbox"/> 620 FOOD & DRUG<br><input type="checkbox"/> 630 LIQUOR LAWS<br><input type="checkbox"/> 640 R.R. & TRUCK<br><input type="checkbox"/> 650 AIR LINE REGS.<br><input type="checkbox"/> 660 OCCUPATIONAL SAFETY/HEALTH<br><input type="checkbox"/> 690 OTHER<br><br><b>LABOR</b><br><input type="checkbox"/> 710 FAIR LABOR STANDARDS<br><input type="checkbox"/> 720 LABOR/MGMT. RELATIONS<br><input type="checkbox"/> 730 LABOR/MGMT. REPORTING & DISCLOSURE ACT<br><input type="checkbox"/> 740 RAILWAY LABOR ACT<br><input type="checkbox"/> 790 OTHER LABOR LITIGATION | <input type="checkbox"/> 820 COPYRIGHT<br><input type="checkbox"/> 830 PATENT<br><input type="checkbox"/> 840 TRADEMARK<br><br><b>OTHER STATUTES</b><br><input type="checkbox"/> 400 STATE RE-APPORTIONMENT<br><input type="checkbox"/> 410 ANTI-TRUST<br><input type="checkbox"/> 420 BANKRUPTCY TRUSTEE<br><input type="checkbox"/> 430 BANKS AND BANKING<br><input type="checkbox"/> 450 COMMERCE ICC RATES, ETC.<br><input type="checkbox"/> 460 DEPORTATION<br><input type="checkbox"/> 810 SELECTIVE SERVICE<br><input type="checkbox"/> 850 SECURITIES COMMODITIES EXCHANGE<br><input type="checkbox"/> 860 SOCIAL SECURITY<br><input type="checkbox"/> 862 BLACK LUNG<br><input type="checkbox"/> 870 TAX SUITS<br><input type="checkbox"/> 891 AGRICULTURAL ACTS<br><input type="checkbox"/> 892 ECONOMIC STABILIZATION ACT<br><input type="checkbox"/> 893 ENVIRONMENTAL MATTERS<br><input type="checkbox"/> 894 ENERGY ALLOCATION ACT<br><input type="checkbox"/> 950 CONSTITUTIONALITY OF STATE STATUTES<br><input type="checkbox"/> 970 NARA, TITLE III<br><input type="checkbox"/> 890 OTHER STATUTORY ACTIONS |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 CONDEMNATION<br><input type="checkbox"/> 220 FORECLOSURE<br><input type="checkbox"/> 230 RENT LEASE & EJECTMENT<br><input type="checkbox"/> 240 TORTS TO LAND<br><input type="checkbox"/> 245 TORT PRODUCT LIABILITY<br><input type="checkbox"/> 290 ALL OTHER REAL PROPERTY   |  |  |  |  |

(PLACE AN ☒ IN ONE BOX ONLY)

## ORIGIN

(PLACE AN ☒ IN ONE BOX ONLY)☒ 1 ORIGINAL PROCEEDING ☐ 2 REMOVED FROM STATE COURT ☐ 3 REMANDED FROM APPELLATE COURT ☐ 4 REINSTATED OR REOPENED ☐ 5 TRANSFERRED FROM (SPECIFY DIST.) ☐ 6 MULTIDISTRICT LITIGATIONRESIDENCE OF PRINCIPAL PARTIES  
(IF DIVERSITY)

|  |                                       |                                       |
|--|---------------------------------------|---------------------------------------|
|  | PTF                                   | DEF                                   |
| RESIDENT OF YOUR STATE                               | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 |
| NON-RESIDENT CORPORATION DOING BUSINESS IN STATE     | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            |
| NON-RESIDENT CORPORATION NOT DOING BUSINESS IN STATE | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            |
| OTHER NON-RESIDENT OF YOUR STATE                     | <input type="checkbox"/> 4            | <input type="checkbox"/> 4            |

JURY DEMAND: ☒ YES ☐ NO☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$75,000.

OTHER

## REMARKS

DATE

24 February 1977

SIGNATURE OF ATTORNEY OF RECORD

*Billy R. Johnson*

GIBSON &amp; NEWLIN

P.O. Box 355  
Bruce, Miss. 38915

UNITED STATES DISTRICT COURT

JS-44a (Rev. 1/75)

## FEB 28 1977

LONNIE L. BLAYLOCK

Plaintiff

**VS.**

JOHN M. JOHNSON, individually, and as an Officer of the Winona, Mississippi Police Department; JOHN MARLOW, individually, and as an Officer of the Winona, Mississippi Police Department; GARY MOORE, individually and as Mayor of the City of Winona, Mississippi; M. E. DAVES, BILLY LANCASTER, HARRY LEE ROBINSON, EDWARD A. HAMMOND, JR., and SPENCE TOWNSEND, individually and as Board of Aldermen of the City of Winona, Mississippi

## Defendants

COMPLAINT FOR  
DAMAGES

**JURY TRIAL  
REQUESTED**

CIVIL NO. WC 7721-5

# COMPLAINT

## JURISDICTION

1. This is a civil action for damages under color of statute, ordinance, regulation, custom, or usage of a right, privilege, and immunity secured to Plaintiff by the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States and Title 42 United States Code, Sections 1983, 1985, 1986, 1988 and arising under the law and statutes of the State of Mississippi.

2. The jurisdiction of this Court is involed under Title 28 United States Code, Sections 1343 (1) (2) (3) and (4), this being an action authorized by law to redress the deprivation under color of State law, statute, ordinance, regulation, custom, and usages of a right, privilege, and immunity secured to Plaintiff by the Fourteenth Amendment to the Constitution of the United States.

3. The complaint also sets forth certain causes of action arising under the laws of the State of Mississippi, based upon the same facts giving rise to the federal causes of action contained in this complaint, the Court's pendent jurisdiction gives it power to determine these causes of action.

#### PARTIES

4. Lonnie L. Blaylock, Plaintiff, during all times mentioned in this complaint, was and is an adult male citizen of the United States and resides in Winona, Montgomery County, Mississippi.

5. John M. Johnson, Defendant, at all times mentioned herein, was employed as a police officer with the rank of Lieutenant, by the City of Winona, Mississippi, and was acting under color of his official capacity as a policeman. He is a citizen of the United States and of Winona, Mississippi.

6. John Marlow, Defendant, at all times material to this complaint, was employed as a police officer by the City of Winona, Mississippi, and was acting under color of his official capacity as a policeman. He is a citizen of the United States and of Winona, Mississippi.

7. Gary Moore, Defendant, at all times mentioned herein was and is Mayor of the City of Winona, Mississippi. By reason of such office, Mayor Moore possesses and exercises ultimate command and final supervisory control over the Winona Police Department. Mayor Moore also serves as Judge of the Municipal Court. He is a resident of the United States and of Winona, Mississippi.

8. M. E. Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammond, Jr., and Spence Townsend were, at all times material to this Complaint, the Board of Aldermen of Winona, Mississippi. They, along with Mayor Moore, are responsible for hiring policemen, and were negligent in hiring Defendants Johnson and Marlow. They are all residents of the United States and of Winona, Mississippi.

9. All Defendants named herein are sued individually, and in their aforementioned official capacities.

STATEMENT OF THE FACTS

10. On or about the 9th day of October, 1976, at approximately 12:30 a.m., the Plaintiff, along with a companion, Herbert L. McNeer, drove to a restaurant in Winona, Mississippi, known as El Sero's Cafe. Plaintiff parked his automobile in front of said restaurant and entered therein to purchase a cup of coffee. Mr. McNeer remained in Plaintiff's automobile. While Plaintiff was drinking coffee with friends, Defendants Johnson and Marlow, in their capacity as police officers in the City of Winona, Mississippi, without provocation or legal cause, did order Plaintiff to leave said restaurant and did commit the following acts:

a) Defendant Johnson unlawfully struck Plaintiff with his fist, knocking Plaintiff to the concrete sidewalk;

b) Defendant Johnson unlawfully kicked Plaintiff with fury in the side of Plaintiff's head, while Plaintiff was lying on said sidewalk;

c) Defendant Johnson unlawfully placed his booted foot on Plaintiff's throat while Plaintiff was lying on said sidewalk, and used this means to choke Plaintiff;

d) Defendant Johnson and Defendant Marlow then drug Plaintiff to their police car where Defendant Johnson twisted Plaintiff's arm, pulled his hair, and administered another beating;

e) Defendant Marlow did nothing to prevent Defendant Johnson's unlawful assault and battery upon the Plaintiff, and at one point held the Plaintiff up while he was being struck by Defendant Johnson;

f) Plaintiff and Mr. McNeer were taken to the Montgomery County Jail where they were unlawfully detained for some six hours;

g) Plaintiff was, before being placed in jail, taken to the Montgomery County Hospital by Defendants Johnson and Marlow, where, there being no doctor present, he was treated by some nurses and released. Because Plaintiff suffered great bodily pain, injury, and mental anguish, he returned to see Dr. William A. Middleton on being released from jail. Dr. Middleton sutured Plaintiff's cuts and treated his other injuries.

h) Plaintiff was required to post a \$50.00 bond on a charge of public drunk before being released from jail, although no legal charges had been lodged against him.

i) On October 13, 1976, Defendant Gary Moore, after consulting with Defendants Johnson and Marlow, issued a warrant for Plaintiff's arrest on a charge of resisting arrest.

j) At all times mentioned herein, Defendants Johnson and Marlow knew that Plaintiff was totally disabled and suffered from an acute form of diabetes.

k) Plaintiff has suffered and will continue to suffer in the future, great bodily pain, injury, and mental anguish as a result of the unlawful acts of Defendants Johnson and Marlow.

#### VIOLATIONS OF LAW

15. Upon information and belief, Plaintiff charges that the Defendants Marlow and Johnson, in violation of Title 42, United States Code, Section 1985 (2), did conspire and agree between themselves for the purpose of impeding, hindering, obstructing, or defeating the due course of justice in the State of Mississippi, and with intent to deny to Plaintiff Lonnie Blaylock, the equal protection of the laws because of personal animosity, against said Lonnie L. Blaylock.

16. In furtherance of the object of said conspiracy, the Defendants Johnson and Marlow did do the acts set forth in paragraph ten of this Complaint in violation of Title 42, 1985 (3), did



thereby injure Plaintiff, Lonnie L. Blaylock, in his person and deprive him of having and exercising his rights and privileges under the Constitution and laws of the United States and the Constitution and the laws of the State of Mississippi.

17. The Defendants, separately, and in concert, outside the scope of their jurisdiction and without authorization of law, acted willfully, knowingly, and purposefully with the specific intent to deprive Plaintiff of his right to freedom from physical abuse and intimidation.

18. The search of Plaintiff's automobile without a search warrant and without probable cause violated the Fourth Amendment and constituted a denial of the due process and equal protection provisions as guaranteed by the Fourth Amendment of the United States Constitution and Article Three, Section Fourteen of the Constitution of the State of Mississippi.

19. The physical abuse upon the person of the Plaintiff by Defendant Johnson denied him the right to be free from cruel, unusual, and summary punishment without due process of law as guaranteed by the Fifth, Eighth, and Fourteenth Amendments of the Constitution of the United States.

20. The physical abuse upon the person of the Plaintiff by Defendant Johnson constituted an assault and battery and is actionable for civil damages under Mississippi law.

21. Upon information and belief, Plaintiff charges that the issuance of the warrant by Defendant Moore on October 13, 1976 was an attempt by said Defendant and Defendants Johnson and Marlow to coerce, harass, or dissuade Plaintiff from taking any legal action against the Defendants, and violated the rights guaranteed Plaintiff by the First Amendment to the Constitution of the United States..



22. The assault and battery and the violations of Plaintiff's Constitutional rights by Defendant Johnson resulted from negligence of the Defendant Mayor and Board of Aldermen of the City of Winona, Mississippi, who knew or should have known of Defendant Johnson's propensity for violence.


23. The fact that Defendant Marlow stood by and witnessed the attack upon the person of Plaintiff, at one point holding him up, and failed or neglected to render aid and assistance to or attempt to prevent the assault being committed upon Plaintiff, renders him liable to Plaintiff and his actions constituted negligence and acquiescence of the unlawful and unconstitutional actions of Defendant Johnson.

RELIEF PRAYED

WHEREFORE, Plaintiff prays that this Court:

- a) Assume jurisdiction;
- b) Award Plaintiff \$25,000.00 actual damages and \$50,000.00 punitive damages;
- c) Tax costs to Defendants; and
- d) Grant any and all other equitable relief to which Plaintiff is entitled.

RESPECTFULLY SUBMITTED

  
BILLY R. GIBSON  
GIBSON AND NEWLIN  
P. O. BOX 355  
SOUTH NEWBURGER STREET  
BRUCE, MISSISSIPPI 38915  
ATTORNEYS FOR PLAINTIFF

February 28, 1977

LONNIE L. BLAYLOCK

V.

NO. WC7721-S


JOHN M. JOHNSON, INDIVIDUALLY AND AS  
AN OFFICER OF THE WINONA, MISSISSIPPI  
POLICE DEPARTMENT, ET AL

TAKE NOTICE that the above styled and numbered cause has  
been assigned to Judge Orma R. Smith.

All pleadings must be filed in duplicate.

NORMAN L. GILLISPIE, CLERK

BY:

  
Deputy Clerk, Jan J. Estes

TO: Hon. Billy R. Gibson  
P.O. Box 355  
Bruce, Ms. 38915

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF MISSISSIPPI

POST OFFICE DRAWER 1519

CORINTH, MISSISSIPPI 38834

ORMA R. SMITH  
JUDGE

March 21, 1977


Honorable Norman L. Gillespie  
Clerk of the Court  
U. S. District Court  
P. O. Box 727  
Oxford, MS 38655

Re: Blaylock v. Johnson, et al, NO. WC 77-21-S

Dear Norman:

Enclosed for the jacket file is an order dated today's date, March 21, 1977, signed by Judge Smith. Copies are being sent to those persons listed below.

Sincerely,

  
Robert H. Pedersen  
Law Clerk to Judge Smith

ah  
enclosure

cc: Hon. William Liston, Box 645, Winona, MS 38967  
Hon. Billy R. Gibson, Box 355, Bruce, MS 38915  
Ms. Margaret K. Tubbs, Courtroom Deputy, U.S. District  
Court, Box 727, Oxford, MS 38655

RECEIVED

MAR 21 1977

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIISION

LONNIE L. BLAYLOCK

PLAINTIFF

VERSUS

NO. WC 7721-S

JOHN M. JOHNSON, Individually,  
and as an Officer of the Winona,  
Mississippi Police Department;  
JOHN MARLOW, Individually, and as  
an Officer of the Winona,  
Mississippi Police Department;  
GARY MOORE, Individually, and as  
Mayor of the City of Winona,  
Mississippi; M. E. DAVES, BILLY  
LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR., and  
SPENCE TOWNSEND, Individually and  
as Board of Aldermen of the City  
of Winona, Mississippi

**FILED**

MAR 22 1977

NORMAN L. GILLESPIE, CLERK  
by Jan J. [Signature] Deputy

DEFENDANTS

ORDER GRANTING ENLARGEMENT OF TIME  
IN WHICH TO ANSWER OR OTHERWISE PLEAD

This day this cause came on to be heard on motion of the defendants herein for an enlargement of time in which to answer or otherwise plead to the Complaint filed herein against them, and it being made to appear unto the Court that the plaintiff, acting by and through his attorney, Honorable Billy R. Gibson, has no objection to such enlargement of time, the Court finds that said motion is well taken and should be sustained. It is, therefore,

ORDERED

That the defendants herein be, and they are hereby, granted until on or before the 18th day of April, A.D., 1977, in which to answer or otherwise plead to the Complaint filed herein against them.

SO ORDERED AND ADJUDGED on this the 21<sup>st</sup> day of March, A.D., 1977.

[Signature]  
UNITED STATES DISTRICT JUDGE

**U.S. MARSHALS SERVICE**  
INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

|  |   |   |           |
|--|---|---|-----------|
| PLAINTIFF  | Lonnie L. Blaylock  | COURT NUMBER  | WC 7721-5 |
| DEFENDANT  | Spence Townsend   | TYPE OF WRIT  | Summons   |
| SERVE  | NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN |   |           |
| →  | Spence Townsend   |   |           |
|  | ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)  |   |           |
| AT   | Winona, Mississippi 38967   |   |           |
| SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:                             |   |   |           |
| Gibson and Newlin<br>Attorneys at Law<br>P. O. Box 355<br>Bruce, Mississippi 38915 |   |   |           |
| SPECIAL INSTRUCTIONS:  |   | Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 8, etc. → NO. 1 OF 8 TOTAL   |           |
|  |   | CHECK IF APPLICABLE:<br><input type="checkbox"/> One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included. |           |
|  |   | SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.                |           |

|  |  |  |                                      |
|--|--|--|--------------------------------------|
| NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR   |  | TELEPHONE NUMBER   | DATE                                 |
| Donald F. Newlin   |  | 983-4220   | 2/9/77                               |
| SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE  |  |  |                                      |
| Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted. →  | DEPOSIT/CODE                                 | DIST. OF ORIGIN  | DISTRICT TO SERVE                    |
|  |  | 42   | 42                                   |
| I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.   | SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK |  | DATE                                 |
|  | Dannie L. Williams                           |  | 2-28-77                              |
| <input checked="" type="checkbox"/> I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below. |  |  |                                      |
| <input type="checkbox"/> I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.  |  |  |                                      |
| NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above)   |  | <input type="checkbox"/> A person of suitable age and discretion then abiding in the defendant's usual place of abode. |                                      |
| ADDRESS (Complete only if different than shown above)  |  | FEE (If applicable)  | MILEAGE                              |
|  |  | \$3.00   | \$                                   |
| DATE(S) OF ENDEAVOR (Use Remarks if necessary)   | DATE OF SERVICE                              | TIME   | SIGNATURE OF U. S. MARSHAL OR DEPUTY |
|  | 3-1-77                                       | 11:30 PM   | James F. Rank                        |

REMARKS  
Served on Blk H'ston - city attorney-williams To accept service

**FILED**

MAR 2 - 1977

NORMAN L. GILLESPIE, CLERK  
By Dannie L. Williams Deputy

# United States District Court

FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISION

CIVIL ACTION FILE NO. WC7721-S

LONNIE L. BLAYLOCK

Plaintiff

v.

JOHN M. JOHNSON, INDIVIDUALLY AND AS AN  
OFFICER OF THE WINONA, MISSISSIPPI POLICE  
DEPARTMENT, ET AL

Defendant

SUMMONS

To the above named Defendant : Spence Townsend

You are hereby summoned and required to serve upon  
Billy R. Gibson  
Gibson and Newlin  
P.O. Box 355  
Bruce, Mississippi 38915

plaintiff's attorney , whose address is above

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

NORMAN L. GILLESPIE

Clerk of Court.

Jan J. Estes

Jan J. Estes

Deputy Clerk.

Date: February 28, 1977

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

U.S. MARSHALS SERVICE  
PROCESS RECEIPT and RETURN

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF  
PROCESS BY THE U.S. MARSHAL" on the reverse of the last  
(No. 5) copy of this form. Please type or print legibly, insuring  
readability of all copies. Do not detach any copies.

|           |                    |                 |           |
|-----------|--------------------|-----------------|-----------|
| PLAINTIFF | Lonnie L. Blaylock | COURT NUMBER    | WC 7721-5 |
| DEFENDANT | Gary Moore         | TYPE OF WRIT(S) | Summons   |

SERVE



AT

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN  
Gary Moore

ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

City Hall, Winona, Mississippi 38967

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Gibson and Newlin  
Attorneys at Law  
P. O. Box 355  
Bruce, Mississippi 38915

Number of writs to be  
served with this form-285

2

Number parties to be  
served in this case

8

Check for service  
on U.S.A.

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

Signature of Attorney or other Originator requesting service on behalf of: ☒ PLAINTIFF ☐ DEFENDANT TELEPHONE NUMBER 983-4220 DATE 2/9/77

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

|  |             |                       |                      |  |         |
|--|-------------|-----------------------|----------------------|--|---------|
| I acknowledge receipt for the<br>total number of writs indicated<br>(Sign only first USM 285 if<br>more than one 285 is submitted) | Total Writs | District<br>of Origin | District<br>to Serve | Signature of Authorized USMS Deputy or Clerk | Date    |
|  |             | 42                    | 42                   | [Signature]                                  | 2-28-77 |

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☒ have executed as shown in "Remarks", the  
writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at  
the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)

|  |   |
|--|---|
| Name and title of individual served (if not shown above) | <input type="checkbox"/> A person of suitable age and<br>discretion then residing in the<br>defendant's usual place of abode. |
| Address (complete only if different than shown above)    | Date of Service 3-1-77 Time 11:30 pm  |

|  |                |                    |                                       |               |
|--|----------------|--------------------|---------------------------------------|---------------|
| Signature of U.S. Marshal or Deputy<br>James E. Kowalski | Forwarding Fee | Service Fee \$3.00 | Mileage (including endeavors) \$17.25 | Total \$20.25 |
|--|----------------|--------------------|---------------------------------------|---------------|

REMARKS:  
served on BMAh Koston - city ATTORNEY - willing to accept service

FILED

MAR 2 - 1977

NORMAN L. GILLESPIE, CLERK

by [Signature] Deputy,

1. CLERK OF THE COURT

## United States District Court

FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISIONCIVIL ACTION FILE NO. WC7721-S

LONNIE L. BLAYLOCK

Plaintiff

v.

JOHN M. JOHNSON, INDIVIDUALLY AND AS AN  
OFFICER OF THE WINONA, MISSISSIPPI POLICE  
DEPARTMENT, ET AL

Defendant

SUMMONS

To the above named Defendant : Gary Moore

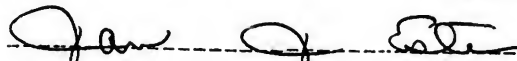
You are hereby summoned and required to serve upon  
Billy R. Gibson  
Gibson and Newlin  
P.O. Box 355  
Bruce, Mississippi 38915

plaintiff's attorney , whose address is above

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

NORMAN L. GILLESPIE

Clerk of Court.



Jan J. Estes

Deputy Clerk.

Date: February 28, 1977

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.



**U.S. MARSHALS SERVICE**  
**INSTRUCTION AND PROCESS RECORD**

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

PLAINTIFF

Lonnie L. Blaylock

COURT NUMBER

WC 7721-5

DEFENDANT

Edward A. Hammond, Jr.

TYPE OF WRIT  
Summons

SERVE

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

Edward A. Hammond, Jr.



ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

Winona, Mississippi 38967

AT

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Gibson and Newlin  
Attorneys at Law  
P. O. Box 355  
Bruce, Mississippi 38915

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc.

NO. 3 TOTAL 8

CHECK IF APPLICABLE:

☐ One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS:

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR

*Ronald F. Newlin*

TELEPHONE NUMBER

983-4220

DATE

2/9/77

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted.



I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.

DEPOSIT/CODE

DIST. OF ORIGIN

DISTRICT TO SERVE

LOCATION OF SUB-OFFICE OF DIST. TO SERVE

SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK

DATE

☒ I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above)

ADDRESS (Complete only if different than shown above)

☐ A person of suitable age and discretion then abiding in the defendant's usual place of abode.

FEE (If applicable)

\$ 3.00

MILEAGE

\$

DATE(S) OF ENDEAVOR (Use Remarks if necessary)

DATE OF SERVICE TIME

3-1-77 11:30 PM

SIGNATURE OF U. S. MARSHAL OR DEPUTY

*James E. Rankin*

REMARKS

Service on BHL Lister City Attorney - willing to accept service

**FILED**

MAR 2 - 1977

NORMAN L. GILLESPIE, CLERK

by *James E. Rankin* Deputy

## United States District Court

FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISIONCIVIL ACTION FILE NO. WC7721-S

LONNIE L. BLAYLOCK

Plaintiff

v.

JOHN M. JOHNSON, INDIVIDUALLY AND AS AN  
OFFICER OF THE WINONA, MISSISSIPPI POLICE  
DEPARTMENT, ET AL

Defendant

SUMMONS

To the above named Defendant : Edward A. Hammond, Jr.

You are hereby summoned and required to serve upon  
Billy R. Gibson  
Gibson and Newlin  
P.O. Box 355  
Bruce, Mississippi 38915

plaintiff's attorney , whose address is above

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

NORMAN L. GILLESPIE

Clerk of Court.

Jan J. Estes  
Jan J. Estes Deputy Clerk.

Date: February 28, 1977

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

U.S. MARSHALS SERVICE  
INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

|           |   |              |            |
|-----------|---|--------------|------------|
| PLAINTIFF | Lonnie L. Blaylock  | COURT NUMBER | WC 77 21-5 |
| DEFENDANT | Harry Lee Robinson  | TYPE OF WRIT | Summons    |
| SERVE     | NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN |              |            |
| AT        | Harry Lee Robinson  |              |            |
|           | ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)  |              |            |
|           | Winona, Mississippi 38967   |              |            |

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Gibson and Newlin  
Attorneys at Law  
P. O. Box 355  
Bruce, Mississippi 38915

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc.

NO. 4 OF 8 TOTAL

CHECK IF APPLICABLE:

☐ One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS:

|  |                  |        |
|--|------------------|--------|
| NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR | TELEPHONE NUMBER | DATE   |
| <i>Ronald F. Newlin</i>                            | 984-4220         | 2/9/77 |

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

|   |  |                 |                   |  |
|---|--|-----------------|-------------------|--|
| Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted. | DEPOSIT/CODE                                 | DIST. OF ORIGIN | DISTRICT TO SERVE | LOCATION OF SUB-OFFICE OF DIST. TO SERVE |
|   |  | 42              | 42                | Oxford Ms                                |
| I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.          | SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK |                 |                   | DATE                                     |
|   | <i>Letron</i>                                |                 |                   | 2-28-77                                  |

☒ I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

|  |  |
|--|--|
| NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above) | <input type="checkbox"/> A person of suitable age and discretion then abiding in the defendant's usual place of abode. |
| ADDRESS (Complete only if different than shown above)    | FEE (If applicable) MILEAGE  |
|  | \$ 3.00 \$   |

|  |                 |          |                                      |
|--|-----------------|----------|--------------------------------------|
| DATE(S) OF ENDEAVOR (Use Remarks if necessary) | DATE OF SERVICE | TIME     | SIGNATURE OF U. S. MARSHAL OR DEPUTY |
|  | 3-1-77          | 11:30 PM | <i>James E. Rankin</i>               |

REMARKS  
service on Bill Hester-city Attorney-willings to accept service

FILED

MAR 2 - 1977

NORMAN L. GILLESPIE, CLERK

by *James E. Rankin*  
Deputy

## United States District Court

FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISIONCIVIL ACTION FILE NO. WC7721-S

LONNIE L. BLAYLOCK

Plaintiff

v.

JOHN M. JOHNSON, INDIVIDUALLY AND AS AN  
OFFICER OF THE WINONA, MISSISSIPPI POLICE  
DEPARTMENT, ET AL

Defendant

SUMMONS

To the above named Defendant : Harry Lee Robinson

You are hereby summoned and required to serve upon  
Billy R. Gibson  
Gibson and Newlin  
P.O. Box 355  
Bruce, Mississippi 38915

plaintiff's attorney , whose address is above

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

NORMAN L. GILLESPIE

Clerk of Court.



Jan J. Estes

Deputy Clerk.

Date: February 28, 1977

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

U.S. MARSHALS SERVICE  
INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

|           |  |              |           |
|-----------|--|--------------|-----------|
| PLAINTIFF | Lonnie L. Blaylock   | COURT NUMBER | WC 7721-5 |
| DEFENDANT | Billy Lancaster  | TYPE OF WRIT | Summons   |
| SERVE     | NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN<br>Billy Lancaster |              |           |
| AT        | ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)<br>Winona, Mississippi 38967                              |              |           |

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Gibson and Newlin  
Attorneys at Law  
P. O. Box 355  
Bruce, Mississippi 38915

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc.

NO. 5 OF 8

CHECK IF APPLICABLE:

☐ One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS:

|  |                  |        |
|--|------------------|--------|
| NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR | TELEPHONE NUMBER | DATE   |
| <i>Ronald F. Newlin</i>                            | 983-4220         | 2/9/77 |

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

|   |  |                 |                   |  |
|---|--|-----------------|-------------------|--|
| Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted. | DEPOSIT/CODE                                 | DIST. OF ORIGIN | DISTRICT TO SERVE | LOCATION OF SUB-OFFICE OF DIST. TO SERVE |
| I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.          |  | 42              | 42                | Wynona, Miss                             |
|   | SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK |                 |                   | DATE                                     |
|   | <i>W L W</i>                                 |                 |                   | 2-28-77                                  |

☒ I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

|  |  |
|--|--|
| NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above) | <input type="checkbox"/> A person of suitable age and discretion then abiding in the defendant's usual place of abode. |
| ADDRESS (Complete only if different than shown above)    | FEE (If applicable) \$ 3.00 MILEAGE \$   |

|  |                 |          |                                      |
|--|-----------------|----------|--------------------------------------|
| DATE(S) OF ENDEAVOR (Use Remarks if necessary) | DATE OF SERVICE | TIME     | SIGNATURE OF U. S. MARSHAL OR DEPUTY |
|  | 3-1-77          | 11:30 PM | <i>James E. Branch</i>               |

REMARKS  
Service on Bill Histon - city Attorney - willing to accept service

FILED

MAR 2 - 1977

NORMAN L. GILLESPIE, CLERK  
by *[Signature]*  
Deputy

**United States District Court**  
FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISION

CIVIL ACTION FILE NO. WC7721-S

LONNIE L. BLAYLOCK

Plaintiff

v.

JOHN M. JOHNSON, INDIVIDUALLY AND AS AN  
OFFICER OF THE WINONA, MISSISSIPPI POLICE  
DEPARTMENT, ET AL

Defendant

SUMMONS

To the above named Defendant : Billy Lancaster

You are hereby summoned and required to serve upon  
Billy R. Gibson  
Gibson and Newlin  
P.O. Box 355  
Bruce, Mississippi 38915

plaintiff's attorney , whose address is above

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

NORMAN L. GILLESPIE

*Jan J. Estes*  
Jan J. Estes

Clerk of Court.

*Estes*  
Deputy Clerk.

Date: February 28, 1977

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.



U.S. MARSHALS SERVICE

INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

PLAINTIFF

DEFENDANT

Longnie L. Blaylock

M. E. Daves

COURT NUMBER

TYPE OF WRIT

WC 77-21-5

Summons

SERVE

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

M. E. Daves, Winona, Mississippi 38967

ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

Winona, Mississippi 38967

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Gibson and Newlin  
Attorneys at Law  
P. O. Box 355  
Bruce, Mississippi 38915

SHOW NUMBER OF THIS WRIT AND TOTAL NUMBER OF WRITS SUBMITTED, I.E., 1 OF 1, 1 OF 3, ETC.

CHECK IF APPLICABLE:  
☐ One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS:

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR

TELEPHONE NUMBER

DATE

Donald F. Newlin

983-4220

2/9/77

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted.

DEPOSIT/CODE

DIST. OF ORIGIN

DISTRICT TO SERVE

LOCATION OF SUB-OFFICE OF DIST. TO SERVE

I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.

SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK

DATE

☒ I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above)

A person of suitable age and discretion then abiding in the defendant's usual place of abode.

ADDRESS (Complete only if different than shown above)

FEE (If applicable)

MILEAGE

DATE(S) OF ENDEAVOR (Use Remarks if necessary)

DATE OF SERVICE

TIME

SIGNATURE OF U.S. MARSHAL OR DEPUTY

3-1-77

11:40 AM

Norman L. Gillespie

REMARKS  
Service on BML Histon - city attorney - willing to accept service

FILED

MAR 2 - 1977

NORMAN L. GILLESPIE, CLERK

by *[Signature]*  
Deputy

# United States District Court

FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISION

CIVIL ACTION FILE NO. WC7721-S

LONNIE L. BLAYLOCK

Plaintiff

v.

JOHN M. JOHNSON, INDIVIDUALLY AND AS AN  
OFFICER OF THE WINONA, MISSISSIPPI POLICE  
DEPARTMENT, ET AL

Defendant

SUMMONS

To the above named Defendant : M.E. Daves

You are hereby summoned and required to serve upon  
Billy R. Gibson  
Gibson and Newlin  
P.O. Box 355  
Bruce, Mississippi 38915

plaintiff's attorney , whose address is above

an answer to the complaint which is herewith served upon you, within 20 days after service of this  
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be  
taken against you for the relief demanded in the complaint.

NORMAN L. GILLESPIE

Clerk of Court.

*Jan J. Estes*

Jan J. Estes

Deputy Clerk.

Date: February 28, 1977

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.



U.S. MARSHALS SERVICE  
PROCESS RECEIPT and RETURN

(No. 5) copy of this form. Please type or print legibly. Insuring readability of all copies. Do not detach any copies.

|  |   |   |           |
|--|---|---|-----------|
| PLAINTIFF  | Lonnie L. Blaylock  | COURT NUMBER                                    | WC 7721-5 |
| DEFENDANT  | John Marlow   | TYPE OF WRIT(S)                                 | Summons   |
| SERVE AT   | NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN<br>John Marlow<br>ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)<br>Winona Police Department, Winona, Mississippi 38967 |   |           |
| SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:                             |   | Number of writs to be served with this form-285 | 7         |
| Gibson and Newlin<br>Attorneys at Law<br>P. O. Box 355<br>Bruce, Mississippi 38915 |   | Number parties to be served in this case        | 8         |
|  |   | Check for service on U.S.A.                     |           |
| SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:  |   |   |           |

|   |                   |   |   |   |                 |
|---|-------------------|---|---|---|-----------------|
| Signature of Attorney or other Originator requesting service on behalf of:<br><i>Donald L. Newlin</i>   |                   | <input checked="" type="checkbox"/> PLAINTIFF<br><input type="checkbox"/> DEFENDANT | TELEPHONE NUMBER<br>983-4220  | DATE<br>2/9/77  |                 |
| SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE   |                   |   |   |   |                 |
| I acknowledge receipt for the total number of writs indicated (Sign only first USM 285 if more than one 285 is submitted)   | Total Writs<br>42 | District of Origin<br>42  | District to Serve<br>42   | Signature of Authorized USMS Deputy or Clerk<br><i>L. Woods</i> | Date<br>2-28-77 |
| I hereby certify and return that I <input checked="" type="checkbox"/> have personally served, <input type="checkbox"/> have legal evidence of service, <input type="checkbox"/> have executed as shown in "Remarks", the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below. |                   |   |   |   |                 |
| <input type="checkbox"/> I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)  |                   |   |   |   |                 |
| Name and title of individual served (if not shown above)  |                   |   | <input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode. |   |                 |
| Address (complete only if different than shown above)   |                   |   | Date of Service<br>3-1-77   | Time<br>11:50 am  |                 |
| Signature of U.S. Marshal or Deputy<br><i>James E. Rame</i>   |                   | Forwarding Fee  | Service Fee<br>\$3.00   | Mileage (including endeavors)                                   | Total<br>\$3.00 |
| REMARKS:  |                   |   |   |   |                 |

FILED

MAR 2 - 1977

NORMAN L. GILLESPIE, CLERK  
by *[Signature]*  
Deputy

# United States District Court

FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISION

CIVIL ACTION FILE NO. WC7721-3

LONNIE L. BLAYLOCK

Plaintiff

v.

JOHN M. JOHNSON, INDIVIDUALLY AND AS AN  
OFFICER OF THE WINONA, MISSISSIPPI POLICE  
DEPARTMENT, ET AL

Defendant

SUMMONS

To the above named Defendant : John Marlow

You are hereby summoned and required to serve upon  
Billy R. Gibson  
Gibson and Newlin  
P.O. Box 355  
Bruce, Mississippi 38915

plaintiff's attorney , whose address is above

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

NORMAN L. GILLESPIE

Clerk of Court.

*Jan J. Estes*

Jan J. Estes

Deputy Clerk.

Date: February 28, 1977


[Seal of Court]

NOTE:--This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

**U.S. MARSHALS SERVICE**  
**PROCESS RECEIPT and RETURN**

PROCESS BY THE U.S. MARSHAL: ☒ the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

|           |                    |                 |           |
|-----------|--------------------|-----------------|-----------|
| PLAINTIFF | Lonnie L. Blaylock | COURT NUMBER    | WC 7721-5 |
| DEFENDANT | John M. Johnson    | TYPE OF WRIT(S) | Summons   |

**SERVE AT**  NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

**John M. Johnson**  
ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)  
**Winona, Mississippi 38967**

|  |   |   |
|--|---|---|
| SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:<br><br>Gibson and Newlin<br>Attorneys at Law<br>P. O. Box 355<br>Bruce, Mississippi 38915 | Number of writs to be served with this form-285 | 8 |
|  | Number parties to be served in this case        | 8 |
|  | Check for service on U.S.A.                     |   |

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

|   |   |                              |                |
|---|---|------------------------------|----------------|
| Signature of Attorney or other Originator requesting service on behalf of:<br><i>Donald F. Newlin</i> | <input checked="" type="checkbox"/> PLAINTIFF<br><input type="checkbox"/> DEFENDANT | TELEPHONE NUMBER<br>983-4220 | DATE<br>2/9/77 |
|---|---|------------------------------|----------------|

**SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE**

|   |             |                    |                   |  |         |
|---|-------------|--------------------|-------------------|--|---------|
| I acknowledge receipt for the total number of writs indicated (Sign only first USM 285 if more than one 285 is submitted) | Total Writs | District of Origin | District to Serve | Signature of Authorized USMS Deputy or Clerk | Date    |
|   |             | 42                 | 42                | <i>[Signature]</i>                           | 2-28-77 |

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☒ have executed as shown in "Remarks", the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)

|  |   |
|--|---|
| Name and title of individual served (if not shown above) | <input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode. |
| Address (complete only if different than shown above)    | Date of Service<br>3-1-77   |
|  | Time<br>12:05 am  |

|   |                |                       |                               |                 |
|---|----------------|-----------------------|-------------------------------|-----------------|
| Signature of U.S. Marshal or Deputy<br><i>James E. Lamb</i> | Forwarding Fee | Service Fee<br>\$3.00 | Mileage (including endeavors) | Total<br>\$3.00 |
|---|----------------|-----------------------|-------------------------------|-----------------|

REMARKS:  
*Left Attached to Residence*

**FILED**

MAR 2 - 1977

NORMAN L. GILLESPIE, CLERK

by: *[Signature]* Deputy

**United States District Court**  
FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISION

CIVIL ACTION FILE NO. WC7721-S

LONNIE L. BLAYLOCK

Plaintiff

v.

JOHN M. JOHNSON, INDIVIDUALLY AND AS AN  
OFFICER OF THE WINONA, MISSISSIPPI POLICE  
DEPARTMENT, ET AL

Defendant

**SUMMONS**

To the above named Defendant : John M. Johnson

You are hereby summoned and required to serve upon  
Billy R. Gibson  
Gibson and Newlin  
P.O. Box 355  
Bruce, Mississippi 38915

plaintiff's attorney , whose address is above

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

NORMAN L. GILLESPIE

Clerk of Court.

Jan J. Estes

Jan J. Estes

Deputy Clerk.

Date: February 28, 1977

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT  
OFFICE OF THE CLERK  
NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION  
OXFORD, MISSISSIPPI  
March 22, 1977

NOTICE


LONNIE L. BLAYLOCK

V.

NO. WC7721-S

JOHN M. JOHNSON, INDIVIDUALLY,  
AND AS AN OFFICER OF THE WINONA,  
MISSISSIPPI POLICE DEPARTMENT:  
ET AL

TAKE NOTICE that Judge Orma R. Smith signed an Order on  
March 21, 1977 allowing the defendant to have until April 18, 1977,  
to answer or plead.

NORMAN L. GILLISPIE, CLERK  
BY:   
Deputy Clerk, Jan J. Estes

TO: Hon. Billy R. Gibson  
P.O. Box 355  
Bruce, Ms. 38915

Hon. William Liston  
P.O. Box 645  
Winona, Ms. 38967

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

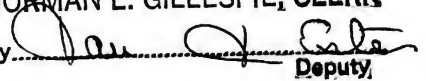
VERSUS

NO. WC 77-21-S

JOHN M. JOHNSON, Individually,  
and as an Officer of the Winona,  
Mississippi Police Department;  
JOHN MARLOW, Individually, and as  
an Officer of the Winona,  
Mississippi Police Department;  
GARY MOORE, Individually, and as  
Mayor of the City of Winona,  
Mississippi; M. E. DAVES, BILLY  
LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR. and  
SPENCE TOWNSEND, Individually,  
and as Board of Alderman of the  
City of Winona, Mississippi

**FILED**

APR 18 1977

NORMAN L. GILLESPIE, CLERK  
by  Deputy

DEFENDANTS

DEMURRER, ANSWER, AFFIRMATIVE DEFENSES,  
AND DEMAND FOR TRIAL BY JURY  
OF DEFENDANTS, GARY MOORE, M. E. DAVES,  
BILLY LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR. AND SPENCE TOWNSEND

Come now Gary Moore, M. E. Daves, Billy Lancaster,  
Harry Lee Robinson, Edward A. Hammond, Jr. and Spence Town-  
send, six of the defendants in the above-styled and numbered  
cause, by and through their attorneys of record, and file  
this their Demurrer, Answer, Affirmative Defenses and  
Demand for Trial by Jury herein and say:

FIRST DEFENSE

The Complaint fails to state a cause of action as  
against these defendants upon which relief can be granted.

SECOND DEFENSE

Answering now the Complaint paragraph by paragraph,  
these defendants state:

1. These defendants admit the allegation of the nature of the present brought against them; that the jurisdiction of this Court is invoked under 28 U.S.C.A., 1343(1) - (4), all as set forth in Paragraphs 1, 2 and 3 of the Complaint; but deny any allegations contained in said Paragraphs which allege by way of statement of fact or by way of conclusion or inference that the plaintiff has any cause of action as against these defendants under the Constitution of the United States, statutes of the United States, or under the law and statutes of the State of Mississippi.

2. These defendants admit the capacity and citizenship of the plaintiff and of the defendants Johnson and Marlow, as set forth and alleged in Paragraphs 4, 5 and 6 of the Complaint.

3. These defendants admit the allegations of the capacities and residences of themselves as set forth in Paragraphs 7 and 8 of the Complaint, but deny the allegations that defendant Moore possesses and exercises ultimate command and final supervisory control over the police department of the City of Winona; deny that defendant Moore is presently serving as Judge of the Municipal Court; and deny that these defendants are solely responsible for the hiring of policemen and emphatically deny that they were negligent in the part they played in hiring defendants Johnson and Marlow as policemen of the City of Winona, Mississippi.

4. These defendants are without sufficient information and knowledge to form a belief as to the allegations contained in Paragraph 10 and subparagraphs a) through k), inclusive, of Paragraph 10 of the Complaint, and, therefore, said allegations are denied with the exception that these defendants admit that on or about October 13, 1976, a warrant was issued by defendant Moore for the plaintiff's arrest on a charge of resisting arrest.



5. The copies of the Complaint filed herein served upon these defendants do not contain any paragraphs numbered 11 through 14, inclusive, and these defendants, therefore, have no means by which to answer the allegations of said paragraphs, if the same are set forth in the original Complaint on file herein. These defendants, therefore, specifically deny any allegations of fact and conclusions, if any, set forth and contained in the original Complaint numbered 11 through 14, inclusive, which in any way allege any cause of action against these defendants.

6. These defendants are without sufficient information and knowledge to form a belief as to the allegations of Paragraphs 15 and 16 of the Complaint insofar as they allege a conspiracy between defendants Johnson and Marlow, and, therefore, said allegations are denied.

7. These defendants deny the allegations of fact and conclusions set forth and contained in Paragraphs 17 through 23 of the Complaint.

8. These defendants deny that the plaintiff is entitled to any of the relief prayed for in his Complaint as against these defendants and deny that the plaintiff is entitled to any other relief as to these defendants.

### THIRD DEFENSE

Insofar as the Complaint filed herein against these defendants seeks to impose vicarious liability upon these defendants for the tortious acts, if any, of defendants Johnson and Marlow, these defendants aver and allege affirmatively that as a matter of law liability cannot be imposed upon them either in their official capacities or in their individual capacities under the doctrine of respondeat superior.



FOURTH DEFENSE

These defendants exercised reasonable prudence and circumspection in the hiring of defendants Johnson and Marlow as policemen of the City of Winona, Mississippi.

FIFTH DEFENSE

These defendants exercised reasonable prudence and circumspection in retaining Johnson and Marlow as policemen of the City of Winona, Mississippi, during the period of their employment with said City in said capacity.

AND NOW HAVING FULLY ANSWERED, these defendants pray that the Complaint filed herein against them be dismissed and that they be discharged with their cost.



WILLIAM LISTON  
128 North Quitman Avenue  
Winona, Mississippi 38967

ATTORNEY FOR DEFENDANTS, MOORE,  
DAVES, LANCASTER, ROBINSON,  
HAMMOND, and TOWNSEND

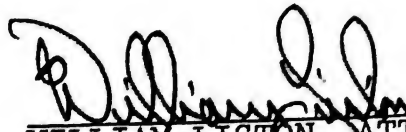
OF COUNSEL:

LISTON, CRULL & GIBSON  
128 North Quitman Avenue  
Winona, Mississippi 38967

DEMAND FOR TRIAL BY JURY

Come now, Gary Moore, M. E. Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammond, Jr. and Spence Townsend, six of the defendants in the above-styled and numbered cause, by and through their attorneys of record, and demand trial by jury on all issues herein.

This the 18th day of April, A.D., 1977.

A handwritten signature in dark ink, appearing to read "William Liston", written over a horizontal line.

WILLIAM LISTON, ATTORNEY  
FOR DEFENDANTS, MOORE, DAVES,  
LANCASTER, ROBINSON, HAMMOND,  
and TOWNSEND

CERTIFICATE OF SERVICE

I, William Liston, of counsel for Gary Moore, M. E. Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammond, Jr. and Spence Townsend, six of the defendants in the above-styled and numbered cause, do hereby certify that I have this day mailed, via United States Mail, postage prepaid, a true and correct copy of the above and foregoing Demurrer, Answer, Affirmative Defenses, and Demand for Trial by Jury unto Honorable Billy R. Gibson, attorney for the plaintiff herein, at his usual mailing address being P. O. Box 355, Bruce, Mississippi 38915.

This the 18th day of April, A.D., 1977.

  
WILLIAM LISTON

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VERSUS

NO. WC 77-21-S

JOHN M. JOHNSON, Individually,  
and as an Officer of the Winona,  
Mississippi Police Department;  
JOHN MARLOW, Individually, and as  
an Officer of the Winona,  
Mississippi Police Department;  
GARY MOORE, Individually and as  
Mayor of the City of Winona,  
Mississippi; M. E. DAVES, BILLY  
LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR. and  
SPENCE TOWNSEND, Individually,  
and as Board of Alderman of the  
City of Winona, Mississippi

**FILED**

APR 18 1977

NORMAN L. GILLESPIE, CLERK

by

Deputy

DEFENDANTS

DEMURRER, ANSWER, AFFIRMATIVE DEFENSES,  
AND DEMAND FOR TRIAL BY JURY  
OF JOHN M. JOHNSON AND JOHN MARLOW

Come now John M. Johnson and John Marlow, two of the  
defendants in the above-styled and numbered cause, by and  
through their attorneys of record, and file this their  
Demurrer, Answer, Affirmative Defenses to the Complaint  
filed herein against them, and further file herein their  
Demand for Trial by Jury, and say:

FIRST DEFENSE

The Complaint fails to state a cause of action as  
against these defendants upon which relief can be granted.

SECOND DEFENSE

Answering now the Complaint paragraph by paragraph,  
these defendants state:

1. Answering defendants admit the nature of the present action as alleged in Paragraph 1 of the Complaint, but deny any rights, privileges and immunities secured to the plaintiff under the Constitution of the United States, laws of the United States, or the laws and statutes of the Mississippi have been violated.

2. These defendants admit that the jurisdiction of this Court is invoked under 28 U.S.C.A., §1343(1) - (4) and admit the nature of the present action, but deny specifically that the plaintiff has been deprived under color of State law or otherwise any rights, privilege and immunities secured to him by the Fourteenth Amendment to the Constitution of the United States or any other constitutional provision or federal or state statute or law.

3. These defendants deny that the Complaint sets forth any causes of action arising under the laws of the State of Mississippi or that the Complaint sets forth any federal causes of action and, therefore, deny the allegations of Paragraph 3.

4. These defendants admit the residence and citizenship of the plaintiff.

5. Admitted.

6. Admitted.

7. Answering defendants admit that the defendant, Gary Moore, held the offices of Mayor and Judge of the Municipal Court of Winona, Mississippi, at all times set forth in the Complaint; admit that he is a resident of the United States and Winona, Mississippi; but deny all of the remaining allegations of Paragraph 7.

8. These defendants admit that M. E. Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammond, Jr., and Spence Townsend were and are now the members of the Board of Aldermen of Winona, Mississippi, and that all of said defen-

dants reside in the United States and Winona, Mississippi; but these defendants deny all of the remaining allegations of Paragraph 8 of the Complaint.

9. These defendants admit that they are being sued herein.

10. These defendants deny the allegations of fact and conclusions of law set forth and contained in Paragraph 10 and subparagraphs a) through k), inclusive, of the Complaint, except to admit that at the time and place set forth therein these defendants effected a lawful arrest of the plaintiff Blaylock and of his companion, Herbert L. McNeer, for a violation of the laws of the State of Mississippi and in so doing used no more force than was necessary to effect said arrest.

11. The copies of the Complaint filed herein served upon these defendants do not contain any paragraphs numbered 11 through 14, inclusive, and these defendants, therefore, have no means by which to answer the allegations of said paragraphs, if the same are set forth in the original Complaint on file herein. These defendants, therefore, specifically deny any allegations of fact and conclusions, if any, set forth and contained in the original Complaint numbered 11 through 14, inclusive, which in any way allege any cause of action against these defendants.

15. These defendants deny each and every allegation of fact and conclusion set forth and contained in Paragraph 15 of the Complaint.

16. These defendants deny each and every allegation of fact and conclusion set forth and contained in Paragraph 16 of the Complaint.

17. These defendants deny each and every allegation of fact and conclusion set forth and contained in Paragraph 17 of the Complaint.

18. These defendants deny each and every allegation of fact and conclusion set forth and contained in Paragraph 18 of the Complaint.

19. These defendants deny each and every allegation of fact and conclusion set forth and contained in Paragraph 19 of the Complaint.

20. These defendants deny each and every allegation of fact and conclusion set forth and contained in Paragraph 20 of the Complaint.

21. These defendants deny each and every allegation of fact and conclusion set forth and contained in Paragraph 21 of the Complaint.

22. These defendants deny each and every allegation of fact and conclusion set forth and contained in Paragraph 22 of the Complaint.

23. These defendants deny each and every allegation of fact and conclusion set forth and contained in Paragraph 23 of the Complaint.

24. These defendants deny that the plaintiff is entitled to any of the relief prayed for in his Complaint or for any other relief.

### THIRD DEFENSE

Defendants hereby given notice that the following affirmative matter will be proved by the defendants on the hearing of this cause in avoidance of the claim made herein against them, to-wit:

#### I

These defendants would respectfully show unto the Court that at approximately 12:20 o'clock A.M. on or about

the 9th day of October, A.D., 1976, they each were on duty as policemen of the City of Winona, Mississippi. At said time, these defendants entered a restaurant located on United States Highway 82 West in said City for the purpose of drinking coffee and while defendants were inside said cafe, the plaintiff, Lonnie Blaylock, drove his automobile onto the parking lot of said cafe and parked it in front of and near the front entrance to said cafe. Blaylock then entered the cafe and sat down at the table with these defendants and several other persons. At said time and place, Blaylock was in a drunken condition as evidenced by his staggering, the manner of his speech, and his actions. The plaintiff attempted to engage these defendants in a conversation but was unable because of his condition to finish any sentence which he began. After observing the plaintiff in this condition for several minutes, defendant Johnson requested him to go outside of the cafe with him, and after some hesitation the plaintiff followed defendant Johnson out of the cafe at which time and place defendant Johnson advised the plaintiff that he was under arrest for public drunkenness. After having been advised of his arrest, the plaintiff Blaylock resisted both of these defendants in their attempts to place him in the police car and to effect the arrest. Such resistance consisted of refusing to enter the police vehicle, in grabbing and pushing these defendants and in threatening to strike defendant Johnson. As a result of such resistance on the part of the plaintiff, it was necessary that defendant Johnson strike the plaintiff with his hand.

## II

At the time and place aforesaid, the plaintiff, Lonnie



Blaylock committed the crime of public drunkenness, a misdemeanor under the laws of the State of Mississippi, in the presence of officers Johnson and Marlow, and said officers, as members of the police force of the City of Winona, Mississippi, were under a duty to arrest the plaintiff, and these defendants's act in placing the plaintiff under arrest was, therefore, legal.

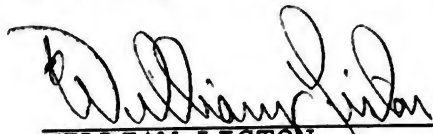
### III

The plaintiff resisted his lawful arrest by the defendants, as aforesaid, and the defendants only used the force that was reasonably necessary to secure and detain plaintiff and overcome his resistance.

### IV

The plaintiff's deliberate and intentional acts of commission performed for the purpose of resisting his lawful arrest by the defendants, as aforesaid, constitute the sole proximate cause of the injuries, if any, received by him.

AND NOW HAVING FULLY ANSWERED, defendants Johnson and Marlow pray that the Complaint filed herein against them be dismissed and that they be discharged with their cost.



WILLIAM LISTON  
128 North Quitman Avenue  
Winona, Mississippi 38967

ATTORNEY FOR THE DEFENDANTS,  
JOHNSON AND MARLOW

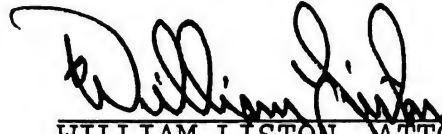
OF COUNSEL:

LISTON, CRULL & GIBSON  
128 North Quitman Avenue  
Winona, Mississippi 38967

DEMAND FOR TRIAL BY JURY

Come now John M. Johnson and John Marlow, two of the defendants in the above-styled and numbered cause, by and through their attorneys of record, and demand trial by jury on all issues herein.

This the 18th day of April, A.D., 1977.

A handwritten signature in black ink, appearing to read "William Liston", is written over a horizontal line.

WILLIAM LISTON, ATTORNEY  
FOR DEFENDANTS JOHNSON AND  
MARLOW

CERTIFICATE OF SERVICE

I, William Liston, of counsel for John M. Johnson and John Marlow, two of the defendants in the above-styled and numbered cause, do hereby certify that I have this day mailed, via United States Mail, postage prepaid, a true and correct copy of the above and foregoing Demurrer, Answer, Affirmative Defenses, and Demand for Trial by Jury unto Honorable Billy R. Gibson, attorney for the plaintiff, at his regular mailing address being P. O. Box 355, Bruce, Mississippi 38915.

This the 18th day of April, A.D., 1977.

  
WILLIAM LISTON

**United States District Court**  
NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION  
OXFORD, MISSISSIPPI  
July 26, 1977

LONNIE L. BLAYLOCK

V.

NO. WC77-21-S

JOHN M. JOHNSON, ET AL

**TAKE NOTICE that** THE ABOVE STYLED AND NUMBERED CAUSE HAS  
BEEN REFERRED TO MAGISTRATE J. DAVID ORLANSKY  
PURSUANT TO RULE 4.1.(a).

NORMAN L. GILLESPIE, CLERK

By: *Sherry J. Hunter*  
Deputy Clerk  
Sherry J. Hunter

Hon. Billy R. Gibson, P.O. Box 355, Bruce, Ms. 38915  
Hon. William Liston, Box 645, Winona, Ms. 38967

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

ANDREW N. MILSAP

V.

NO. WC7493-S

JACK K. REED, SUPERINTENDENT,  
MISSISSIPPI STATE PENITENTIARY,  
ET AL

JAMES CARTER

v.

NO. WC76115-S

LIBERTY CASH, JR., ET AL

W. C. MONTGOMERY

V.

NO. WC76118-S

DENNIS RAY WALLACE, ET AL

LONNIE L. BLAYLOCK

V.

JOHN M. JOHNSON, ET AL

NO. WC7721-S

REFERRAL ORDER

Pursuant to Local Rule M-4.1(b)(2), the above captioned and numbered causes are hereby referred to United States Magistrate J. David Orlansky for all purposes, including evidentiary hearings and trial, unless trial by jury is demanded.

This the 18<sup>th</sup> day of August, 1977.



ORMA R. SMITH  
DISTRICT JUDGE

United States District Court  
NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION  
OXFORD, MISSISSIPPI

August 19, 1977

LONNIE L. BLAYLOCK

V.

NO. WC7721-S

JOHN M. JOHNSON, INDIVIDUALLY  
AND AS AN OFFICER OF THE WINONA  
MISSISSIPPI POLICE DEPARTMENT

TAKE NOTICE that Judge Orma R. Smith signed the enclosed Order of  
Referral to U.S. Magistrate, J. David Orlansky on August 18, 1977.

NORMAN L. GILLESPIE, CLERK

By: 

Deputy Clerk

Jan J. Estes

To:

Mr. Billy R. Gibson  
P.O. Box 355  
Bruce, Ms. 38915

Mr. William Liston  
P.O. Box 645  
Winona, Ms. 38967

**United States District Court**

NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

OXFORD, MISSISSIPPI

September 2, 1977

LONNIE L. BLAYLOCK

V.

JOHN M. JOHNSON

NO. WC 77-21-S

TAKE NOTICE that an Order transferring this cause to U. S. Magistrate Charles M. Powers, signed by Judge Smith on September 1, 1977, has been filed.

NORMAN L. GILLESPIE, CLERK

By:

*Margaret E. Long*  
Deputy Clerk

TO: Hon. Billy R. Gibson, P. O. Box 355, Bruce, Miss. 38915  
Hon. William Liston, P. O. Box 645, Winona, Miss. 38967



UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK

NORTHERN DISTRICT OF MISSISSIPPI

P.O. Box 727

Oxford, Mississippi 38655

April 28, 1978

NORMAN L. GILLESPIE  
CLERK

WC77-21-S-P

RE: Lonnie L. Blaylock vs. John M. Johnson, et al

Dear Sirs:

Enclosed herewith is a copy of Order On Discovery Deadlines And Referral To Magistrate For Ruling Upon All Nondispositive Motions, Pretrial Conference, And For Entry Of A Pretrial Order which has been entered this date by the clerk in the above styled cause.

Sincerely yours,

NORMAN L. GILLESPIE, CLERK

BY: *Sherry J. Hunter*  
Sherry J. Hunter  
Deputy Clerk

TO:

Hon. Billy R. Gibson, P.O. Box 355, Bruce, MS 38915  
Hon. William Liston, Box 645, Winona, MS 38967

Judge Orma R. Smith, P.O. Box 1519, Corinth, MS 38834  
Magistrate Charles M. Powers, P.O. Box 726, Aberdeen, MS 39730

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

LONNIE L. BLAYLOCK

VS.

NO. WC77-21-S-P

JOHN M. JOHNSON, ET AL

ORDER ON DISCOVERY DEADLINES AND REFERRAL TO  
MAGISTRATE FOR RULING UPON ALL NONDISPOSITIVE  
MOTIONS, PRETRIAL CONFERENCE, AND FOR ENTRY  
OF A PRETRIAL ORDER

---

By direction of the court, it is hereby ordered that counsel in the above-mentioned cause shall initiate and complete all discovery authorized by the Federal Rules of Civil Procedure not later than the 28th day of August, 19 78. The period of discovery fixed herein may not be extended by agreement of the parties but only, upon a showing of good cause, by permission of the United States Magistrate to whom this case is assigned. Counsel shall, within 30 days after completion of discovery, file all pretrial motions. All nondispositive motions, as authorized by 28 USC §636(b)(1)(A), shall be heard and determined by said magistrate, and legal memoranda in support of or in opposition to such motions shall be submitted directly to the magistrate as provided by Local Rule G-8, and not to the Clerk of Court or to the district judge. All other motions shall be heard and determined by the district judge assigned, and all legal memoranda in support of or in opposition to such motions shall be submitted directly to the district judge assigned.

This cause is referred to United States Magistrate Charles M. Powers not only for handling all motions for extensions of time, discovery motions, and other nondispositive

motions, but also for pretrial conference and for the entry of a pretrial order.

A pretrial conference shall be held on a date and place designated by the magistrate, after full completion of discovery, and the notice of the magistrate setting the cause for pretrial conference shall advise counsel that the case shall be calendared for trial during a designated month. The magistrate shall at once contact Norman L. Gillespie, Clerk of Court, giving such advice, and said Clerk of Court shall fix a firm setting within 15 days after the filing of the pretrial order and promptly notify all counsel of such setting.

BY ORDER OF THE COURT, this, 28th day of April, 1978.

NORMAN L. GILLESPIE, Clerk

By Sherry J. Hunter  
Deputy Clerk  
Sherry J. Hunter

LISTON, CRULL & GIBSON

ATTORNEYS AT LAW

128 NORTH QUITMAN AVENUE

P. O. BOX 645

WINONA, MISSISSIPPI 38967

TELEPHONE 601 283-2132

WILLIAM LISTON  
LUTHER P. CRULL, JR.  
HUGH GIBSON  
FRANKLIN J. GEORGE

June 22, 1978

EUPORA OFFICE  
P. O. DRAWER C  
EUPORA, MISSISSIPPI 39744  
TELE. 601 258-7855

GRENADA OFFICE  
P. O. BOX 656  
GRENADA, MISSISSIPPI 38901  
TELE. 601 226-2424

Ms. Jan Estes, Deputy Clerk  
United States District Court  
P. O. Box 727  
Oxford, Mississippi 38655

RE: Lonnie L. Blaylock v. John M. Johnson, et al.  
U. S. D. C., N. D. Miss. - Cause No. WC77-21-S

Dear Jan:

Please find enclosed herewith the original Notice of Filing Interrogatories and Interrogatories of Defendants to Plaintiff, Lonnie L. Blaylock, which I ask that you file in the above-styled and numbered cause.

Consistent with the Certificate of Service, I have this date forwarded a true and correct copy of each of these documents to Honorable Billy R. Gibson, attorney for the plaintiff.

With personal regards, I remain

Sincerely yours,

LISTON, CRULL & GIBSON

By: Luther P. Crull, Jr.  
Luther P. Crull, Jr.

LPCjr/lm  
Enclosure  
CC Honorable Billy R. Gibson

RECEIVED

JUN 26 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VERSUS

NO. WC 77-21-S

JOHN M. JOHNSON, Individually,  
and as an Officer of the Winona,  
Mississippi Police Department;  
JOHN MARLOW, Individually, and  
as an Officer of the Winona,  
Mississippi Police Department;  
GARY MOORE, Individually, and as  
Mayor of the City of Winona,  
Mississippi; M. E. DAVES, BILLY  
LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR. and  
SPENCE TOWNSEND, Individually,  
and as Board of Aldermen of the  
City of Winona, Mississippi

DEFENDANTS

NOTICE OF FILING INTERROGATORIES

TO: LONNIE L. BLAYLOCK  
c/o Honorable Billy R. Gibson  
Gibson and Newlin  
Attorneys at Law  
P. O. Box 355  
South Newburger Street  
Bruce, Mississippi 38915

ATTORNEY FOR PLAINTIFF

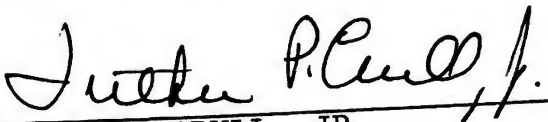
**FILED**

JUN 26 1978

NORMAN L. GILLESPIE, CLERK  
by *[Signature]* Deputy

Pursuant to the provisions of Rule 33 of the Federal Rules of Civil Procedure, you are hereby notified that the original of the annexed Interrogatories has this date been filed in the above-entitled cause in the office of the Clerk of the United States District Court, Oxford, Mississippi, and that pursuant to the provisions of the aforesaid Rule 33, plaintiff is requested, without further proceedings, to answer said interrogatories within thirty (30) days or suffer default.

THIS the 22nd day of June, A.D., 1978.

  
LUTHER P. CRULL, JR.  
ATTORNEY FOR DEFENDANTS

OF COUNSEL:

LISTON, CRULL & GIBSON  
128 North Quitman Avenue  
Winona, Mississippi 38967

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VERSUS

NO. WC 77-21-S

JOHN M. JOHNSON, Individually,  
and as an Officer of the Winona,  
Mississippi Police Department;  
JOHN MARLOW, Individually, and  
as an Officer of the Winona,  
Mississippi Police Department;  
GARY MOORE, Individually, and as  
Mayor of the City of Winona,  
Mississippi; M. E. DAVES, BILLY  
LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR. and  
SPENCE TOWNSEND, Individually,  
and as Board of Aldermen of the  
City of Winona, Mississippi

DEFENDANTS

INTERROGATORIES OF DEFENDANTS  
TO PLAINTIFF, LONNIE L. BLAYLOCK

TO: LONNIE L. BLAYLOCK  
c/o Honorable Billy R. Gibson  
Gibson and Newlin  
Attorneys at Law  
P. O. Box 355  
South Newburger Street  
Bruce, Mississippi 38915

ATTORNEY FOR PLAINTIFF

**FILED**

JUN 26 1978

NORMAN L. GILLESPIE, CLERK  
BY *[Signature]*  
Deputy

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, you are hereby requested to answer under oath the following interrogatories:

1. Please state your full name, your present street address, present mailing address, present telephone number and your present age.
2. Please state any and all other names you have ever used or ever been known by.
3. Please state the name of any and all individuals who are furnishing you information or helping you answer any



of these interrogatories, listing for each person the interrogatory they assisted you on or with.

4. Please state the name, address and telephone number of your present employer, and the length of time you have been employed in your present employment, and what job you hold.

5. Please state where you have resided either temporarily or permanently for the last ten years, and list the dates and addresses of each such residence.

6. Please state whether or not you are married, and if you are married, please state:

A. The length of time that you have been married to your present wife;

B. The full name, present street address, present mailing address and present telephone number of your present wife;

C. Your wife's present occupation;

D. Every occupation that your wife has engaged in, the dates of each occupation, and the name, present street address, and present telephone number of each previous employer for the ten year period preceding

7. With respect to the injuries you received as a result of the occurrence complained of in your Complaint, state the nature, extent and location of:

A. Any cuts or lacerations;

B. Any fractures or dislocations;

C. Any bruises or other visible injuries;

D. Any pain experienced during the 24 hours subsequent to the occurrence;

E. Any pain experienced during the week following the occurrence;

- F. Any pain presently being experienced.
8. If you sustained any fracture, did the fracture extend into a joint?
9. If so, what was the joint involved?
10. Do you or your attorney have knowledge of the bone fractures or dislocations of the joint involved, insofar as the technical or medical names are concerned?
11. If so, state:
- A. The applicable medical name;
  - B. The name and address of the physician making the diagnosis.
12. If not, please describe each fracture or dislocation in layman's terms as to its location and severity.
13. With respect to injury sustained in the occurrence herein, did you injure your head?
14. If so, state:
- A. The nature and extent of the injury received;
  - B. Whether there was any loss of consciousness.
15. If you lost consciousness as a result of the occurrence, for what period of time were you unconscious?
16. Did you sustain any dental injury as a result of the occurrence herein?
17. If so, what was the nature and extent of the injury?
18. Itemize all medication you have received or taken as a result of the occurrence, and state:
- A. The drug or medication taken;
  - B. The frequency with which it was taken and for how long a period of time it was taken;
  - C. The name and address of the pharmacist who prepared or sold same;

D. The cost of each prescription and with regard to such cost:

(1) How much of the cost has been paid and by whom was it paid;

(2) The name of the doctor prescribing each item of medication.

19. Did you incur any ambulance, drug or miscellaneous expense not already enumerated as a result of the occurrence?

20. If so, state:

A. The nature and extent of each expense;

B. The name and address of the person paying the expense.

21. Have you been examined medically or received any kind of medical care or treatment since the date of the occurrence, for the injuries sustained in the occurrence?

22. If so, state:

A. The names, addresses, and telephone numbers of all medical practitioners who rendered you any service;

B. The precise date or dates of the examination, care or treatment;

C. The nature of the examination, care or treatment on each date;

D. The expenses incurred for each treatment;

E. The portion of the expenses which have been paid;

F. The name or names of the person or persons paying a portion or all of the expense.

23. Have you been admitted to any hospital since the date of the occurrence as a result of the occurrence?

24. If so, state:

A. The name and address of each hospital;

- B. The date or dates of treatment;
- C. The name, address and specialty of each person treating you there;
- D. The reason or reasons for your hospitalization;
- E. The length of stay;
- F. The expenses incurred;
- G. The portion of the expenses which has been paid;
- H. The name or names of the person or persons who paid a portion or all of the expenses.

25. Have any x-rays been taken of you subsequent to the occurrence?

26. If so, state:

- A. The name, address, and job title or capacity of each person taking the x-rays;
- B. The name, address, and job title or capacity of each person requesting that the x-rays be taken;
- C. The time of taking;
- D. The place of taking;
- E. The purpose of taking;
- F. The name, address, and job title or capacity of each person who read or interpreted the x-rays;
- G. The cost thereof.

27. Will you waive any privilege existing between you and any doctor or other medical personnel named in your answers to these interrogatories?

28. If so, please attach to your answers to these interrogatories, duly executed by you, a written authorization for the doctor or other medical personnel to make available to defendants and their attorneys, all information

relating to your physical condition and gained by them in connection with their involvement with their treatment of you for said injuries.

29. Since the time of the occurrence, have you had any surgery performed on any part of your body?

30. If so, for each operation, state:

- A. The part of your body involved;
- B. The nature and extent of the surgery;
- C. The name and address of the surgeon performing the surgery;
- D. The date of the surgery and how long you were confined to a hospital after such surgery;
- E. Your reasons, if any, for claiming that the surgery is connected with the occurrence herein.

31. As a result of the occurrence, or any subsequent surgery, were you confined to your house for a period of time?

32. If so, state:

- A. The length of time you were confined to your bed, other than the period of time normally taken for sleep;
- B. The length of time you were confined to the house although not bedridden;
- C. The date you were first allowed out of bed;
- D. The date you were first allowed outside of the house;
- E. The name of the doctor or other individual who advised you to remain in bed.

33. When you first left your house after confinement therein, state:

- A. Where you went;

- B. How you traveled;
- C. Why you went there;
- D. What you did while you were out;
- E. How long you stayed out.

34. Did any special nurse, registered nurse or practical nurse attend you in the treatment of the injuries received in the occurrence for which a separate charge (exclusive of hospital charges) was made?

35. If you received such treatment, for each nurse, state:

A. Whether special, registered or practical nurse;

B. Her name and address;

C. The date of attendance;

D. The amount of the bill;

E. The name and address of the person

paying the bill and the amount paid on each bill.

36. To the best of your knowledge, has any doctor advised you or your attorney as to the diagnosis of your injuries?

37. If so, state:

A. The diagnosis made of each injury;

B. The name and address of the doctor making the diagnosis;

C. Whether or not there were any written reports made and if so, in whose possession these reports are at the present time.

38. To the best of your knowledge, has any doctor advised you or your attorney as to the prognosis of any of your injuries?

39. If so, state:

A. What injuries you have been advised are probably temporary;

B. Which injuries you have been advised are probably permanent;

C. The name and address of the doctor so advising.

40. Have you received any written reports concerning your physical condition since the occurrence?

41. If so, state:

A. The name and address of each person from whom a report was received;

B. The date of receipt of each report;

C. The name, address, and last known whereabouts of each person having present custody and control of the report.

42. If you will do so without a motion to produce for inspection, please attach copies of all reports received from doctors or other individuals concerning the injuries alleged to have been received in the occurrence involved herein to your answers to these interrogatories.

43. Please state the name and present address of any physician, surgeon, dentist, chiropractor, osteopath or other person that has treated or examined you for injuries received in the occurrence other than those named in Interrogatories 24, 32, 42, 48 and 51.

44. Do you claim any aggravation of a pre-existing condition as a result of the occurrence?

45. If so, state:

A. The nature of the pre-existing condition;

B. How long it had existed prior to the occurrence;

C. The names and addresses of all persons and institutions treating you for the pre-



existing condition prior to the time of the occurrence;

D. Dates of treatment for the pre-existing condition prior to the time of the occurrence.

46. Since the date of the occurrence, have you been wearing any brace, support, or other form of orthopaedic device?

47. If so, state:

A. The name of the appliance;

B. The part or parts of your body on which you are wearing the appliance;

C. The period of time you did or will wear the appliance;

D. The doctor prescribing such appliance.

48. Have you suffered any illness or injury since the date of the occurrence herein?

49. If so, for each occasion, state:

A. The nature of the complaint;

B. The names and addresses of all attending physicians and their medical specialties, if any;

C. The names and addresses of any hospitals or other places of confinement in which you were a patient;

D. The treatment prescribed;

E. The period of disability.

50. As a result of the occurrence, has any doctor, to your knowledge, prepared a disability rating on you?

51. If so, state:

A. The name and address of the doctor;

B. The percentage of the rating;

C. Whether the rating is temporary or permanent;

D. The reason for the rating, if known to you.

52. Have you been in any other occurrence since the date of the occurrence herein that resulted in any known personal injury to you?

53. If so, for each occurrence, state:

- A. The date of the occurrence;
- B. The place of the occurrence;
- C. The nature thereof;
- D. The circumstances thereof;
- E. The names and addresses of any other people involved.

54. Had you ever sustained any traumatic injury requiring treatment by a medical physician within the five (5) year period prior to the occurrence?

55. If so, state:

- A. The nature of the injury;
- B. The date of the injury;
- C. The circumstances of the injury;
- D. Whether this prior condition or injury existed in any form at the time of the occurrence alleged in your Complaint.

56. Prior to the occurrence referred to in your Complaint, had you ever received a disability rating for any prior occurrence or sickness?

57. If so, state:

- A. The percentage of the rating;
- B. The date made;
- C. The name and address of the person making it;
- D. The reason for its making.

58. Other than the action herein, have you ever filed a lawsuit against anyone growing out of any personal injury

to yourself or any member of your family?

59. If so, for each lawsuit, state:

- A. The date and place of occurrence;
- B. The court and place of filing;
- C. The date of filing;
- D. The names and addresses of all parties and their attorneys;
- E. The nature and extent of the injuries;
- F. The present status of each suit;
- G. If concluded, the final result of each suit;
- H. The amount of the judgment or settlement in any concluded suit.

60. If you are now or were previously employed, please state:

- A. What is or was your education, special training and experience for your work, business or profession;
- B. What type work you did;
- C. How many years you were employed.

61. Did you lose any time from employment as a result of the occurrence?

62. If so, state:

- A. The periods of time you were off work;
- B. The name and address of your employer at the time you were off work;
- C. The amount of any income you lost thereby;
- D. The actual number of working days you were off work;
- E. The name and address of your employer at the time you claim to have lost income;
- F. The reason for your absence from work.

63. If you were not employed at the time of the occurrence but were employed previously, please state:

A. When you were last employed prior to the occurrence;

B. Where you were employed at that time;

C. The nature of your employment;

D. The name, address and present phone number of your prior employer;

E. The average weekly compensation you received;

F. The facts and circumstances surrounding the termination of that employment.

64. If you have not returned to your former employment since the occurrence and are not employed elsewhere, have you made application for employment elsewhere?

65. If so, state:

A. The names and addresses of the persons, firms, corporations or governmental agencies to whom you have made application for employment;

B. The approximate date of application;

C. The results of your application.

66. If you have been employed since the date of the occurrence, please state whether you have:

A. By whom you were employed;

B. Your job title;

C. Your normal hours of work;

D. Your wage per hour or week;

E. Been advanced or promoted;

F. Received a pay increase, and if so, how much.

67. Do your injuries make difficult or prevent the performance of your work or occupation?

68. If so, in what manner has your work or occupation been made more difficult or impossible of performance?

69. As a result of this occurrence have your duties had to be lightened?

70. If so, state:

A. The nature and degree of the reduction in duties;

B. The nature and extent of any expense to which you have been put in relation to the duties which you are no longer able to perform;

C. The name, address and last known whereabouts of any person who has knowledge of the expense.

71. Did you or your wife file an income tax return for any of the years 1973, 1974, 1975, 1976, and 1977?

72. If so, for each return filed, state:

A. The year of filing;

B. The name and address of the custodian of any copy.

73. For each of said years, state:

A. Your gross income and your wife's gross income;

B. Your joint net taxable income;

C. Your joint total exemptions.

74. In Paragraph 10(K) of the Complaint, you allege that you have suffered and will continue to suffer in the future, great bodily pain, injury and mental anguish as a result of the unlawful acts of the defendants Johnson and Marlow. In reference to these allegations, please state:

A. The exact location, nature, and extent of any bodily pain;

B. The exact location, nature, and extent of any bodily injury;

C. The nature, extent, location and duration of any mental anguish;

D. Exact extent and nature of any permanent bodily pain, injury and mental anguish if you are alleging future damages;

E. Facts upon which you allege future bodily pain, injury and mental anguish.

75. If you suffered any other injuries or damages as a result of the occurrence which have not been heretofore stated, please state the following for each injury or damage:

A. Exact nature and extent of the injury or damage;

B. How you allege the injury or damage was sustained;

C. Whether said injury is permanent in nature;

D. If permanent in nature, please state the facts upon which you allege the injury or damage to be permanent;

E. Did you suffer pain from the injury or damage;

F. If you allege pain to be permanent, please state the facts upon which you base that allegation.

76. For the twelve-hour period immediately preceding the occurrence complained of in your Complaint, please state in order the following:

A. Location and address of where you were physically present;

B. What you were doing or your activity at said location;

C. How long you were present at each said location;

D. Name and address of any person with you at said location;

E. Purpose for being present at each location.

77. Please state the full name and present street and mailing address of each eyewitness to the occurrence known to you and the full name and present street and mailing address of each person that you know of who has any relevant knowledge regarding the facts and circumstances surrounding the occurrence, or the cause thereof.

78. Please state whether you or anyone on your behalf has obtained statements in any form from any person regarding events or happenings that occurred at the scene of the occurrence immediately before, and at the time of, or immediately after said occurrence, and if so, state:

A. The name and present street and mailing address of the person from whom such statements were taken;

B. The date on which the statements were taken;

C. The name and present street and mailing address of the person or persons having custody of such statements and whether such statements were written or taken by a Court Reporter or stenographer or otherwise.

79. Have you ever forfeited bond or pled guilty to or been convicted of any crime, including any alcohol related crimes such as public drunkenness, driving while under the influence of alcohol or driving while intoxicated, and if so, please state the following:

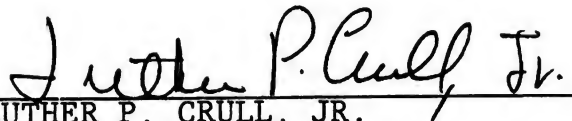
A. Nature of the offense;

B. The date involved;

C. The county and state in which you pled  
guilty, forfeited bond, or were convicted;

D. The sentence or fine imposed.

PROPOUNDED, this the 22nd day of June, A.D.,  
1978.

  
LUTHER P. CRULL, JR.  
ATTORNEY FOR DEFENDANTS

OF COUNSEL:

LISTON, CRULL & GIBSON  
128 North Quitman Avenue  
Winona, Mississippi 38967



CERTIFICATE OF SERVICE

I, Luther P. Crull, Jr., of counsel for the defendants herein, do hereby certify that I have this day mailed, via United States Mail, postage prepaid, a true and correct copy of the above and foregoing Notice of Filing Interrogatories and Interrogatories of Defendants to Plaintiff, Lonnie L. Blaylock, unto Honorable Billy R. Gibson, attorney for the plaintiff herein, at his usual mailing address being P. O. Box 355, South Newburger Street, Bruce, Mississippi 38915.

This the 22nd day of June, A.D., 1978.

  
LUTHER P. CRULL, JR.

LISTON, CRULL & GIBSON

ATTORNEYS AT LAW

128 NORTH QUITMAN AVENUE

P. O. BOX 645

WINONA, MISSISSIPPI 38967

TELEPHONE 601 283-2132

WILLIAM LISTON  
LUTHER P. CRULL, JR.  
HUGH GIBSON

FRANKLIN J. GEORGE  
ALAN D. LANCASTER

July 17, 1978

EUPORA OFFICE:  
P. O. DRAWER G  
EUPORA, MISSISSIPPI 39744  
TELE. 601 258-7855

GRENADA OFFICE:  
P. O. BOX 656  
GRENADA, MISSISSIPPI 38901  
TELE. 601 226-2424

Honorable Billy R. Gibson  
Gibson and Newlin  
Attorneys at Law  
P. O. Box 355  
Bruce, Mississippi 38915

RE: Lonnie L. Blaylock vs. John M. Johnson, et al.  
U.S.D.C., N.D., Miss. - NO. WC 77-21-S

Dear Billy:


This letter is written in reference to my letter to Jan Estes, Deputy Clerk, dated July 13, 1978, relative to interrogatories in the above-captioned matter and the effect of the Court's Rule C-12. At the time of this letter to Ms. Estes, I was under the impression that the Court's Rule C-12 applied to my interrogatories which were filed by letter to Ms. Estes dated June 22, 1978. I have since my letter to Ms. Estes dated July 13, 1978, received information to the effect that the Court's Rule C-12 is only effective as to cases filed after May, 1978; thus, this letter is written to specifically advise you that I will not confess your motion to suppress interrogatories as previously stated in my letter of July 13 and this serves to revoke any authorization which I previously gave you to state in your motion that the defendants confess the same.

With personal regards, I remain

Sincerely yours,

LISTON, CRULL & GIBSON

By:

  
Luther P. Crull, Jr.

LPCjr/lm  
CC Ms. Jan Estes, Deputy Clerk ✓

RECEIVED

JUL 18 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

GIBSON & NEWLIN

COUNSELORS AT LAW  
SOUTH NEWBURGER STREET  
BRUCE, MISSISSIPPI 38915

August 7, 1978

BILLY R. GIBSON  
DONALD F. NEWLIN

Honorable Norman Gillespie  
Federal Court Clerk  
United States District Courthouse  
Oxford, Mississippi

Re: Blaylock vs. Johnson, et al  
Cause No. WC 77-21-S

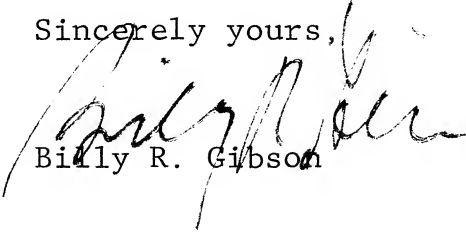
Dear Sir:

As concerns the above captioned matter, I am pleased to forward herewith original and two photocopies of Answer to Interrogatories.

Please file these among the other papers in this cause and if additional copies of the Answers are needed, please advise.

Thanking you, I am

Sincerely yours,

  
Billy R. Gibson

BRG/ms

Enclosure

CC: Honorable Luther P. Crull, Jr.  
128 North Quitman Avenue  
Winona, Mississippi 38967

RECEIVED

AUG 8 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VERSUS

JOHN M. JOHNSON, individually,  
and as an Officer of the Winona,  
Mississippi Police Department;  
JOHN MARLOW, Individually, and  
as an Officer of the Winona,  
Mississippi Police Department;  
GARY MOORE, Individually, and as  
Mayor of the City of Winona,  
Mississippi; M. E. DAVES, BILLY  
LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR. and  
SPENCE TOWNSEND, Individually,  
and as Board of Aldermen of the  
City of Winona, Mississippi

FILED

AUG 8 1978

NORMAN L. GILLESPIE, CLERK  
by Z. Wallington  
Deputy,

Defendants

NO. WC 77-21-S

ANSWER TO INTERROGATORIES

STATE OF MISSISSIPPI

COUNTY OF CALHOUN

This day came and personally appeared before me, the undersigned authority in and for the above named County and State, LONNIE L. BLAYLOCK, who being by me first duly sworn, and by way of Answer to the Interrogatories propounded to him in the above captioned cause, answered under oath as follows, to-wit:

1. Please state your full name, your present street address, present mailing address, present telephone number and your present age.

Answer: Lonnie Ladelle Blaylock, Sr., Route 4, Box 308A, Grenada, Mississippi 38901, 226-7849; 35 years of age.

2. Please state any and all other names you have ever used or ever been known by.

Answer: None

3. Please state the name of any and all individuals who are furnishing you information or helping you answer any of these interrogatories, listing for each person the interrogatory they have listed you on or with.

Answer: None. My attorney helped me with the form of some of the answers.

4. Please state the name, address and telephone number of your present employer, and the length of time you have been employed in your present employment, and what job you hold.

Answer: None. I am 100% disabled through the Veterans Administration since November, 1974.

5. Please state where you have resided either temporarily or permanently for the last ten years, and list the dates and addresses of each such residence.

Answer:

A. Present, Gore Springs, Mississippi, from February, 1977 to present.

B. January, 1976 to February, 1977, Ferguson Apartments No. 13, Winona, Mississippi 38967

C. November, 1975 to January, 1976, Parliament House Apartments, Gulfport, Mississippi.

D. October, 1973 to November, 1975, Hardin Street, Greenwood, Mississippi.

E. March, 1972, to October, 1973, 202 Mission Road, Winona, Mississippi 38967.

F. January, 1970 to March, 1972, Greenville, Mississippi.

G. November, 1966, to January, 1970, Brookhaven, Mississippi.

6. Please state whether or not you are married, and if you are married, please state:

Answer: Yes

A. The length of time that you have been married to your present wife:

Answer: February 9, 1977 to present

B. The full name, present street address, present mailing address and present telephone number of your present wife;

Answer: Janet Blaylock, Route 4, Box 308A, Grenada, Mississippi 38901, 226-7849

C. Your wife's present occupation;

Answer: Parttime cashier, Jerry Jayes Country Disco. Phone Number unknown, February 1975, to September, 1976, Fidelity Underwriters, Inc., Winona, Mississippi, desk clerk; January, 1974 to November, 1974, ANA, Inc., Kilmichael, Mississippi, Secretary.

7. With respect to the injuries you received as a result of the occurrence complained of in your Complaint, state the nature, extent and location of:

Answer:

A. Any cuts or lacerations;

Answer: One-half inch cut through left upper lip, contusions above left eyebrow and on left arm.

B. Any fractures or dislocations;

Answer: None

C. Any bruises or other visible injuries;

Answer: Bruises over left eyebrow, left eye completely black. Bruises in neck, left shoulder, and lower back.

D. Any pain experienced during the 24 hours subsequent to the occurrence;

Answer: Severe pains from cut in lip and over eyebrow. Bruises and swelling of eye causing blackeye. Pain in neck, shoulders and back. I also suffered mental pain that night while I was in jail, besides my physical pain. I could not understand why I wasn't being cared for and couldn't understand the reason I was beat in the face for no reason at all. Also, the next morning I went to the doctor to receive proper care for my cuts and bruises and after the period that I had been beaten, swelling had set in and terrific pain occurred during Dr. Middleton's suturing my lip and caring for my swollen bruises.

E. Any pain experienced during the week following the occurrence;

Answer: Pain from all the above listed and pain for some of the injuries for longer than the following week.

F. Any pain presently being experienced;

Answer: I have a hard knot that gets sore often due to the cut in my lip. And also, mental pain of not being able to understand why I was beaten.

8. If you sustained any fracture, did the fracture extend into a joint?

Answer: None

9. If so, what was the lint involved?

Answer: None

10. Do you or your attorney have knowledge of the bone fractures or dislocations of the joint involved, insofar as the technical or medical names are concerned?

Answer: None.

11. If so, state:

A. The applicable medical name;

Answer: None.

B. The name and address of the physican making the diagnosis.

Answer: None.

12. If not, please describe each fracture or dislocation in layman's terms as to its location and severity.

Answer: None.

13. With respect to injury sustained in the occurrence herein, did you injure your head?

Answer: My head was injured by the policeman who beat me.

14. If so, state:

A. The nature and extent of the injury received;

Answer: One-half inch cut through left upper lip.  
Skinned and bruised over left eyebrow causing black eye.  
Swelling of lips and around eye.

B. Whether there was any loss of consciousness.

Answer: Yes.

15. If you lost consciousness as a result of the occurrence, for what period of time were you unconscious?

Answer: From the time John Johnson hit me the first time until I was taken to the hospital which I vaguely remember.

16. Did you sustain any dental injury as a result of the occurrence herein?

Answer: No dental injury because I wear false plates, but my gums were bruised badly.

17. If so, what was the nature and extent of the injury?

Answer: Gums were bruised and sore for about two weeks due to me being hit in the face several times.

18. Itemize all medication you have received or taken as a result of the occurrence, and state:

A. The drug or medication taken;

Answer: Only medication taken was prescribed at the hospital by Dr. Middleton and I do not know what it was.

B. The frequency with which it was taken and for how long a period of time it was taken;

Answer: None except at hospital.

C. The name and address of the pharmacist who prepared or sold same.

Answer: None

D. The cost of each prescription and with regard to such costs;

Answer: None.

19. Did you incur any ambulance, drug or miscellaneous expense not already enumerated as a result of the occurrence?

Answer: I have not enumerated any expenses, as all expenses other than my loss of time and travel expenses were paid by the Veterans Administration. I am a 100% disabled veteran.

20. If so, state:

Answer:

A. The nature and extent of each expense.

Answer: See Answer to 19 above.

B. The name and address of the person paying the expense.

Answer: See Answer to 19 above.

21. Have you been examined medically or received any kind of medical care or treatment since the date of the occurrence, for the injuries sustained in the occurrence?

Answer: Yes

22. If so, state:

A. The names, address, and telephone numbers of all medical practitioners who rendered you any service;



Answer: Dr. William Middleton, Winona, Mississippi  
Telephone number unknown.

B. The precise date or dates of the examination,  
care, or treatment;

Answer: The following day, 10/9/76. Dr. Middleton  
put stitches in my left upper lip, dressed the contusions,  
and bruises over my eye and on my arm, examined neck,  
shoulder and back for the pain I was experiencing.

C. The nature of the examination, care or treatment  
on each date;

Answer: Examination on back, neck, and shoulders  
stitches on lip, dressings for bruises and contusions  
on arm and eye. I returned to Dr. Middleton on approximately  
one week later for removal of the stitches and to have the  
contusions re-dressed.

D. The expenses incurred for each treatment:

Answer: Exact expense unknown. The Veterans  
Administration was billed.

E. The portion of the expenses which have been paid;

Answer: All

F. The name or names of the person or persons  
paying a portion or all of the expense.

Answer: Veterans Administration, Jackson, Mississippi.

23. Have you been admitted to any hospital since the  
date of the occurrence as a result of the occurrence?

Answer: No.

24. If so, state;

Answer: See answer to 23 above.

25. Have any x-rays been taken to you subsequent to the  
occurrence?

Answer: No

26. If so, state:

Answer: See answer to 25 above.

27. Will you waive any privilege existing between you and any doctor or other medical personnel named in your answers to these interrogatories?

Answer: No.

28. If so, please attach to your answers to these interrogatories, duly executed by you, a written authorization for the doctor or other medical personnel to make available to defendants and their attorneys, all information relating to your physical condition and gained by them in connection with their involvement with their treatment of you for said injuries.

Answer: See answer to 27 above.

29. Since the time of the occurrence, have you had any surgery performed on any part of your body?

Answer: No.

30. If so, for each operation, state:

Answer: See answer to 29 above.

31. As a result of the occurrence, or any subsequent surgery, were you confined to your house for a period of time?

Answer: As a result of the occurrence, and due to the embarrassment as a result of the disfiguration received by me, I avoided public places until such time as the disfiguration was not so obvious. I was never actually confined to my house or to bed.

32. If so, state;

Answer: See answer to 31 above.

33. When you first left your house after confinement therein, state:

Answer: See answer to 31 above.

34. Did any special nurse, registered nurse or practical nurse attend you in the treatment of the injuries received in the occurrence for which a separate charge (exclusive of hospital charges) was made?

Answer: None.

35. If you received such treatment, for each nurse, state:

Answer: See answer to 34 above.

36. To the best of your knowledge, has any doctor advised you or your attorney as to the diagnosis of your injuries?

Answer: See photocopies of medical reports attached.

This is all the knowledge I have of my injuries at this time other than the mental suffering I sustained which has not yet been completely evaluated.

37. If so, state:

Answer: See photocopies of medical reports attached.

38. To the best of your knowledge, has any doctor advised you or your attorney as to the prognosis of any of your injuries?

Answer: No.

39. If so, state:

Answer: See answer to 38 above.

40. Have you received any written reports concerning your physical condition since the occurrence?

Answer: See photocopies attached.

41. If so, state:

Answer: See photocopies attached.

42. If you will do so without a motion to produce for inspection, please attach copies of all reports received from doctors or other individuals concerning the injuries alleged to have been received in the occurrence involved herein to your answers to these interrogatories.

Answer: See photocopies attached.

43. Please state the name and present address or any physician, surgeon, dentist, chiropractor, osteopath or other person that has treated or examined you for injuries received in the occurrence other than those named in Interrogatories 24, 32, 42, 48, and 51.

Answer: None.

44. Do you claim any aggravation of an pre-existing condition as a result of the occurrence?

Answer: Yes.

45. If so, state:

A. The nature of the pre-existing condition;

Answer: Sugar diabetes

B. How long it had existed prior to the occurrence;

Answer: Since July, 1964.

C. The names and addresses of all persons and institutions treating you for the pre-existing condition prior to the time of the occurrence;

Answer: VA Hospital, Jackson, Mississippi;

Dr. W. A. Middleton, Winona, Mississippi, and other doctors on an irregular basis.

D. Dates of treatment for the pre-existing condition prior to the time of the occurrence.

Answer: Routine every three months by the VA Hospital, Jackson, Mississippi, since 1964. Dr. Middleton when needed locally.

46. Since the date of the occurrence, have you been wearing any brace, support, or other form of orthopaedic device?

Answer: No

47. If so, state:

Answer: See Answer to 46 above.

48. Have you suffered any illness or injury since the date of the occurrence herein?

Answer: None other than sugar diabetes and the mental suffering I continue to undergo as a result of the brutal beating of my body and the public embarrassment associated therewith. Also, I suffered a sprained ankle approximately 4 months ago, which was unassociated with the occurrence. Dr. Middleton of Winona treated me for the sprained ankle and I was required to use crutches for approximately one week. I suffered no permanent disability as a result of the sprained ankle.

49. If so, for each occasion, state:

Answer: See answer to 48 above.

50. As a result of the occurrence, has any doctor, to your knowledge, prepared a disability rating on you?

Answer: No

51. If so, state:

Answer: See answer to 50 above.

52. Have you been in any other occurrence since the date of the occurrence herein that resulted in any known personal injury to you?

Answer: If by "occurrence", you mean have I been beaten by a policeman since October, 1976, the answer is no. However, approximately four months ago, I sprained my ankle while walking through the woods behind my home in Grenada County, Mississippi, noone else was involved and, as previously stated, I was on crutches for approximately one week.

53. If so, for each occurrence, state:

Answer: See answer to 52 above.

54. Have you ever sustained any traumatic injury requiring treatment by a medical physician within the five (5) year period prior to the occurrence?

Answer: No.

55. If so, state:

Answer: See answer to 54 above.

56. Prior to the occurrence referred to in your Complaint, had you ever received a disability rating for any prior occurrence or sickness?

Answer: If by "occurrence" you mean being beaten by a policeman, no, however, I have been rated 100% service connected disabled by the Veterans Administration since November of 1974. Prior to that I had various partial ratings of disability. The ratings were all made by the Veterans Administration Hospital in Jackson, Mississippi.

57. If so, state;

Answer: See answer to 56 above.

58. Other than the action herein, have you ever filed a lawsuit against anyone growing out of any personal injury to yourself or any member of your family?

Answer: No.

59. If so, for each lawsuit, state:

Answer: See answer to 58 above.

60. If you are now or were previously employed, please state:

A. What is or was your education, special training, and experience for your work, business or profession;

Answer: I am a high school graduate. I received 1 1/2 years on the job training with REA Express.

B. What type work you did;

Answer: I was a terminal manager for REA Express.

C. How many years you were employed.

Answer: Ten years 5 months.

61. Did you lose any time from employment as a result of the occurrence?

Answer: No, inasmuch as I was already disabled, I did not lose any time from my employment as a result of being beaten by the Winona Police Department.

62. If so, state:

Answer: See answer to 61 above.

63. If you were not employed at the time of the occurrence but were employed previously, please state:

A. When you were last employed prior to the occurrence.

Answer: My last employment prior to being beaten by the Winona Police Department was November, 1974.

B. Where you were employed at that time;

Answer: REA Express, Greenwood, Mississippi



C. The nature of your employment.

Answer: Terminal Manager.

D. The name, address, and present phone number of your prior employer;

Answer: The prior employer is no longer in business.

E. The average weekly compensation you received;

Answer: Approximately \$280.00 per week.

F. The facts and circumstances surrounding the termination of that employment;

Answer: Became disabled to work and upon medical advise, I quit my job.

64. If you have not returned to your former employment since the occurrence and are not employed elsewhere, have you made application for employment elsewhere?

Answer: I am 100% totally disabled and I am prevented from engaging in any gainful employment.

65. If so, state:

Answer: See Answer to 64 above.

66. If you have been employed since the date of the occurrence, please state whether you have:

Answer: I have not been gainfully employed since November, 1974. I sometimes accompany my wife to her work, but I have engaged in no gainful employment since my date of disability nor have I received any remuneration.

67. Do your injuries make difficult or prevent the performance of your work or occupation?

Answer: See answer to number 66 above.

68. If so, in what manner has your work or occupation been made more difficult or impossible of performance?

Answer: See answer to number 66 above.

69. As a result of this occurrence have your duties had to be lightened?

Answer: Not applicable.

70. If so, state:

Answer: Not applicable.

71. Did you or your wife file an income tax return for any of the years 1973, 1974, 1975, 1976, and 1977?

Answer: I have filed a joint tax return with my wife since my marriage February 9, 1977. I have shown no income on said tax return because I had no income. The last tax return which I filed showing income was for the taxable year 1974. I do not have any personal knowledge of tax returns filed by my wife before our marriage.

72. If so, for each return filed, state:

A. The year of filing;

Answer: I filed a tax return on time for the taxable year 1973 and 1974. I filed a joint return with Doris Blaylock, my former wife, for the years 1974 and 1975, although I did not have any income or show any income for the year 1975. I did not file a tax return for 1976, as I had no taxable income.

B. The name and address of the custodian of any copy.

Answer: The only tax return I have a copy of is 1977, which is in my possession.

73. For each of said years, state:

A. Your gross income and your wife's gross income;

Answer: I don't recall what my income was for 1973 and 1974. I don't know what my present wife's income was for any year except 1977.

B. Your joint net taxable income;

Answer: Approximately \$700.00 for the year 1977.

C. Your joint total exemptions.

Answer: We claim four exemptions.

74. In paragraph 10 (K) of the Complaint, you allege that you have suffered and will continue to suffer in the future, great bodily pain, injury and mental anguish as a result of the unlawful acts of the defendants Johnson and Marlow. In reference to



these allegations, please state:

A. The exact location, nature, and extent of any bodily pain;

Answer: The night I was beaten, I was held in jail with bruises and skinned places on my face, eyebrow, and arms; a deep one-half inch cut in my upper left lip. Pain in my neck, back, and shoulders. For the next two weeks following the occurrence, I had swelling and pain from my cuts and bruises on my face. It was three or four months that I suffered with my back and neck and shoulders due to the beating I received by the police. Also, to this day, I suffer a mental stress and wonder why, just why I had to go through all the pain and agony that was put upon me due to Johnson's unruly acts while Marlow stood by as described in my complaint, when I did not do anything to cause them to treat me the way they did. I just cannot understand it and it dwells on my mind why they did this. Additionally, my lip is still tender and has a large knot in it.

B. The exact location, nature, and extent of any bodily injury;

Answer: Same as item A immediately above.

C. The nature, extent, location, and duration of any mental anguish;

Answer: See answer to item A above.

D. Exact extent and nature of any permanent bodily pain, injury and mental anguish if you are alleging future damages;

Answer: Physical damage is a hard spot in my lip which stays tender and sore at times and also my mental stress as enumerated above.

E. Facts upon which you allege future bodily pain, injury and mental anguish.

Answer: There is and has been a knot in my lip since that night. Mental stress occurs each time I look at a police officer and think these people are here in uniform for

people to see that they represent protection. I keep thinking that Johnson did not represent protection to me that night and when I see an officer, I wonder just what they stand for or if they have a mind of their own when they are on duty, in short, I experienced acute mental anguish and suffering whenever I see anything that reminds me of the so-called "occurrence".

75. If you suffered any other injuries or damages as a result of the occurrence which have not been heretofore stated, please state the following for each injury or damage:

Answer: At this time I can't recall any other injuries or sufferings. My mental damage has not been finally evaluated.

76. For the twelve-hour period immediately preceding the occurrence complained of in your Complaint, please state in order the following:

A. Location and address of where you were physically present;

Answer: I was physically present at Ferguson Apartments No. 13, Winona, Mississippi, my home until approximately 3:30 o'clock p.m. when my children got out of school. After my children got out of school, and after they had had their evening meal, I took them to the movie, at approximately 7:00 o'clock p.m. While my children were at the movie, I went to visit with a friend of mine, Mr. Herbert McNeer and we drove to Greenwood, Mississippi. We arrived back in Winona, Mississippi, at approximately 9:30 p.m. when I picked my children up and took them home. Then I went with Mr. McNeer to his home where we visited until 10:30 or 11:00 o'clock p.m. Mr. McNeer and I decided to go to a local tavern at approximately 11:00 o'clock p.m. I called my children to make sure they were o.k. We then went to the Ole Rebel, a local tavern in Carroll County, Mississippi. I drank a few beers there. I had previously drank several mixed drinks at Mr. McNeer's house and had had some beer prior to that.

Mr. McNeer and I left the Ole Rebel Tavern at approximately 12:30 in my automobile and we went to Elceros Restaurant in Winona. Mr. McNeer did not go in. I went in to get the Coffee. I was at the restaurant only for 10 or 15 minutes when the beating occurred as described in my Complaint.

B. What you were doing or your activity at said location;

Answer: See answer to A above.

C. How long you were present at each said location;

Answer: See answer to A above.

D. Name and address of any person with you at said location;

Answer: Mr. McNeer was with me as described above. No one else was "with me", although I saw other persons throughout the night.

E. Purpose for being present at each location.

Answer: I was visiting with Mr. McNeer who was a friend of mine. We went to the Ole Rebel Tavern to see friends. I went to Elceros Restaurant to visit with friends and to drink a cup of coffee.

77. Please state the full name and present street address and mailing address of each eyewitness to the occurrence known to you and the full name and present street and mailing address of each person that you know of who has any relevant knowledge regarding the facts and circumstances surrounding the occurrence, or the cause thereof.

Answer: The persons that I personally know who witnessed my being beat by the policeman were:

- (a) L. C. Blaylock whose address other than the the State of Florida is unknown to me at this time.
- (b) Millie Pittman, Garrett Apartments, Winona, Mississippi.
- (c) Roy Hatchcock, Winona, Mississippi
- (d) Bruce Caldwell, address unknown, but I believe he lives on the Mississippi Gulf Coast.
- (e) Ruby Blaylock, Herrod Drive, Winona, Mississippi.

- (f) Janet Blaylock, Route 4, Grenada, Mississippi
- (g) Lubertha Williams, Vaiden, Mississippi.
- (h) Mr. Herbert McNeer, Winona, Mississippi

78. Please state whether you or anyone on your behalf has obtained statements in any form from any person regarding events or happenings that occurred at the scene of the occurrence immediately before, and at the time of, or immediately after said occurrence, and if so, state:

A. The name and present street and mailing address of the person from whom such statements were taken;

Answer: I have talked to all of the above persons named in the answer to number 77 above. I have not taken any written statements. Additionally, my attorney has talked to some of them and it is my understanding that he has not taken any written statements. I believe he has taken statements on a tape recorder.

B. The date on which the statements were taken;

Answer: I talked to the above named persons at various times. I don't know the dates on which my attorney may have talked with them.

C. The name and present street and mailing address of the person or persons having custody of such statements and whether such statements were written or taken by a Court Reporter or stenographer or otherwise.

Answer: I don't have any written statements. I believe my attorney may have some tape recorded statements.

79. Have you ever forfeited bond or pled guilty to or been convicted of any crime, including any alcohol related crimes such as public drunkenness, driving while under the influence of alcohol or driving while intoxicated, and if so, please state the following:

A. Nature of the offense.

Answer: About 1973, I paid a \$30.00 or \$40.00 fine on a DUI charge in Greenwood, Mississippi. About 1975, I paid a fine in Harrison County, Gulfport, Mississippi on a charge of DUI, after a plea of nolo contendere. I did not feel I was guilty due to the fact that I was not

drinking heavily and I believe I was suffering from  
and insulin reaction.

B. The date involved;

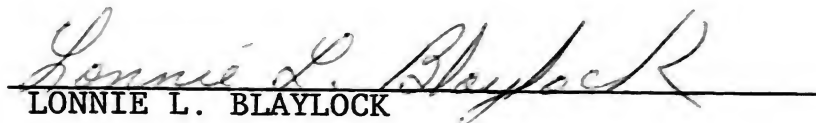
Answer: See answer to A above.

C. The county and state in which you pled guilty,  
forfeited bond, or were convicted;

Answer: See answer to A above.

D. The sentence or fine imposed.

Answer: See answer to A above. I believe the fine  
in Harrison County was \$130.00.

  
LONNIE L. BLAYLOCK

SWORN TO AND SUBSCRIBED BEFORE ME on this the 17<sup>th</sup> day  
of August, A. D., 1978.

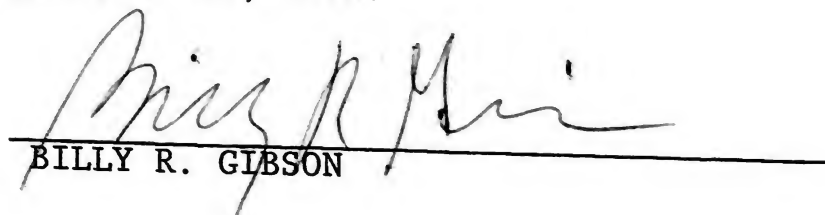
  
NOTARY PUBLIC

MY COMMISSION EXPIRES: 7-6-1980

CERTIFICATE OF SERVICE

I, BILLY R. GIBSON, of counsel for the Plaintiff, herein,  
do hereby certify that I have this date caused to be personally  
delivered a true and correct copy of the above and foregoing answer  
to Interrogatories to the Defendants unto Honorable Luther P. Crull,  
Jr., Attorney for Defendants, at his office in Winona, Mississippi.

This the 7th day of August, A. D., 1978.

  
BILLY R. GIBSON



|   |                          |  |                                 |                             |                          |  |
|---|--------------------------|--|---------------------------------|-----------------------------|--------------------------|--|
| First Name<br><i>Lanice L.</i>  | Middle Name<br><i>L.</i> | Home Phone<br><i>283-4621</i>  | Adm.<br><i>8</i>                | Date<br><i>2-10-76</i>      | A.M.<br>P.M.             | Hosp. No.<br><i>CP</i>   |
| City<br><i>Winona</i>   | State<br><i>MS</i>       | Age<br><i>23</i>   | Date of Birth<br><i>3/10/43</i> | Sex<br><i>M</i>             | Civil Status<br><i>S</i> | Religion   |
| Address<br><i>Blacksburg, MS</i>  |                          | Address<br><i>Rt 2 Winona, Miss</i>  |                                 |                             |                          | Compensation<br>Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Address<br><i>Blacksburg, MS</i>  |                          | Address<br><i>Rt 2 Winona, Miss</i>  |                                 |                             |                          | Phone  |
| Address<br><i>Blacksburg, MS</i>  |                          | Cert. of Policy No.<br><i>SCB 428-84 7951</i>  |                                 | Group No.<br><i>SCB 010</i> |                          | Effective Date<br><i>Denis Blaylock</i>                                  |
| Brought By<br><i>Blacksburg, MS</i>   |                          | Type of Service:<br>XR <input type="checkbox"/> PH <input type="checkbox"/> PT <input type="checkbox"/> Lab. <input type="checkbox"/> Other <input type="checkbox"/> |                                 |                             |                          |  |
| Yes <input type="checkbox"/> No <input type="checkbox"/> Self <input type="checkbox"/> Police <input type="checkbox"/> Fire <input type="checkbox"/> Relative <input type="checkbox"/> Other <input type="checkbox"/> |                          |  |                                 |                             |                          |  |

| BRIEF HISTORY  |                      | DATE   |          |
|--|----------------------|--|----------|
| If accident state where, when and how injured; if illness describe.  |                      | Date   |          |
| <p>Was hit by car leg &amp; was thrown<br/>           from car. I was in car in<br/>           alternate of the green Police<br/>           car. I was in Police car about 1 hr.</p> |                      | <p>Upper lip<br/>           Veterans Admin Center<br/>           1500 E. Woodrow Wilson Dr<br/>           Jackson MS 39216</p> |          |
| Nurse's initials   | Physician's initials | Signature  | Initials |
| A. Heath Cox   |                      | Earl H. H.   |          |

CONDITION ON  
ADMISSION *B*  $\frac{1}{2}$ " *la through left upper*  
Treatment: *Rebryms of upper jaw 3/8" mouth width*  
*1 X 1/2" of a lower + 1/2" upper too left*  
*subvent to right*  
*width of alveolar arches with shoulder*  
*+ low back*

Diagnosis: 1/2" scar through left upper lip  
contusion of left upper lip & gums outer margin  
contusion of left shoulder

The undersigned has been informed of the emergency treatment considered necessary for the patient whose name appears above and that the treatment and procedures are performed by duly qualified members of the hospital staff and employed by the hospital. Authorization is hereby granted for such treatment and procedures.

The undersigned has read the above authorization and understands the same and certifies that no guarantee or assurance has been made as to the results that might be obtained.

Date 10-9-76 Time 8:30 A.M. Signed Donnie Ray Patient

Witness: A. Heath Lyon Cr. 41 10

fresh coral crabs  
 1st eggs 1st = 30 plain subat + 45 with  
 chained 1st 2nd in thin  
 chained + chained area 1st for head  
 Oringer egg  
 1st middle Oringer - 500 7th  
 2nd for 5 u



## EMERGENCY ROOM RECORD

130

|  |  |  |  |   |  |  |  |  |  |                                     |  |
|--|--|--|--|---|--|--|--|--|--|-------------------------------------|--|
| First Name<br><i>Lock</i>                        |  | Middle Name<br><i>Lannie</i>   |  | Home Phone  |  | Admission Date<br><i>10-8-76</i>   |  | A.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> |  | Hosp. No.                           |  |
| City<br><i>Meridian, Miss</i>                    |  | State<br><i>Miss</i>   |  | Age<br><i>33</i>  |  | Date of Birth<br><i>1-1</i>  |  | Sex<br><i>M</i>  |  | Civil Status<br><i>M S W D Sep.</i> |  |
| Address<br><i>Westland Light, Meridian, Miss</i> |  | Address<br><i>Westland Light, Meridian, Miss</i>                     |  | Cert. or Policy No.   |  | Group No.  |  | Effect ve Date   |  | Religion                            |  |
| Family Doctor<br><i>Castellon</i>                |  | Notified<br>Yes <input type="checkbox"/> No <input type="checkbox"/> |  | Brought By<br>Self <input type="checkbox"/> Police <input checked="" type="checkbox"/> Fire <input type="checkbox"/> Relative <input type="checkbox"/> Other <input type="checkbox"/> |  | Type of Service:<br>XR <input type="checkbox"/> PH <input type="checkbox"/> PT <input type="checkbox"/> Lab. <input type="checkbox"/> Other <input type="checkbox"/> |  | Compensation<br>Y <input type="checkbox"/> N <input type="checkbox"/>  |  | Phone                               |  |

If accident, state where, when and how injured; if illness describe: *laceration @ upper lip through it through approx. 1/2" long abrasion @ forehead above eyebrow*

Diabetic States that he has been drinking

Nurse's Signature \_\_\_\_\_ Officer's Signature \_\_\_\_\_

## BRIEF HISTORY

## PHYSICIAN'S REPORT

CONDITION ON ADMISSION: Good ☐ Fair ☐ Poor ☐ Shock ☐ Hemorrhage ☐ Coma ☐ Temp. \_\_\_\_\_ Oral Rectal P. \_\_\_\_\_ R \_\_\_\_\_ BP \_\_\_\_\_

Treatment: Tetanus Toxoid \_\_\_\_\_ cc. Tetanus Antitoxin Test \_\_\_\_\_ Tetanus Antitoxin \_\_\_\_\_ units

Dr. Meadows notified - instructed to tell patient to return in a.m.

Diagnosis: *to have lip sutured, place ice cap on lip tonight et be sure patient receives Insulin as he usually takes*

## AUTHORIZATION FOR EMERGENCY TREATMENT

The undersigned has been informed of the emergency treatment considered necessary for the patient whose name appears above and that the treatment and procedures will be performed by physicians, members of the house staff and employees of the hospital. Authorization is hereby granted for such treatment and procedures.

The undersigned has read the above authorization and understands the same and certifies that no guarantee or assurance has been made as to the results that may be obtained.

Date *10/9/76* Time *1:30* A.M. ☒ P.M. ☐ Signed *Lannie R. Meadows* Patient

Witness *Shields, L.P.* Or \_\_\_\_\_

## INSTRUCTIONS TO PATIENT:

The above instructions given to patient et police

(Physician's Signature)

(Date)

A.M. ☒ P.M. ☐

(Patient's Signature)

EMERGENCY ROOM CHARGES  
Does Not Include Fee of Attending Physician

| ITEM           | CHARGE    | ITEM              | CHARGE |
|----------------|-----------|-------------------|--------|
| Emergency Room | <i>AC</i> | Sutures           |        |
| Anesthesia     |           | Tetanus Antitoxin |        |
| Antiseptics    |           | Cast Room         |        |
| Dressings      |           | Examining Room    |        |
| Drugs          |           |                   |        |

| OTHER SERVICES RENDERED |                          |
|-------------------------|--------------------------|
| X-ray                   | <input type="checkbox"/> |
| Laboratory              | <input type="checkbox"/> |
| Physical Therapy        | <input type="checkbox"/> |
|                         | <input type="checkbox"/> |
|                         | <input type="checkbox"/> |

# United States District Court

FOR THE

NORTHERN DISTRICT OF MISSISSIPPI

LONNIE L. BLAYLOCK

v.

JOHN M. JOHNSON, ET AL

No. WC77-21-S

TAKE NOTICE that the above-entitled case has been set for pre-trial conference at 1:00 p. m. , on Monday, October 30 , 1978 , at the United States Magistrate's Hearing Room, Second Floor, Federal Building, Oxford, Mississippi before U. S. Magistrate Charles M. Powers.

Date August 10 , 1978

NORMAN L. GILLESPIE

\_\_\_\_\_  
Clerk.

By \_\_\_\_\_,

Annie F. Leashore *Deputy Clerk.* &  
Clerical Asst. to Mag. Charles M. Powers

To Hon. Billy R. Gibson, P. O. Box 355, Bruce, MS 38915  
Hon. William Liston, P. O. Box 645, Winona, MS 38967  
Jacket File



1  
2 August 9, 1978  
3 109 Beatrice Street  
4 Greenwood, MS. 38930

5 Honorable Norman L. Gillespie  
6 U. S. District Court  
7 P. O. Box 727  
8 Oxford, MS. 38655

9 In re: Lonnie L. Blaylock  
10 Vs. John M. Johnson, et al.  
11 No. WC 77-21-S

12 Dear Mr. Gillespie:

13 Enclosed herewith is the original transcript of  
14 the deposition of Lonnie L. Blaylock as taken by me in  
15 connection with the above styled and numbered cause.

16 I would appreciate your assistance in filing this  
17 deposition with the correct Court file in this matter.

18 Thank you.

19 Sincerely,

20   
21 Sarah M. Rice

22 Enclosure (1)

23 RECEIVED

24 AUG 10 1978

25 CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
3 WESTERN DIVISION

4 LONNIE L. BLAYLOCK

PLAINTIFF

5 VS.

NO. WC 77-21-S

6 JOHN M. JOHNSON, Individually, and as  
7 an Officer of the Winona, Mississippi  
8 Police Department; JOHN MARLOW,  
9 individually, and as an Officer of the  
10 Winona, Mississippi Police Department;  
11 GARY MOORE, Individually, and as Mayor  
12 of the City of Winona, Mississippi;  
13 M. E. DAVES, BILLY LANCASTER, HARRY LEE  
14 ROBINSON, EDWARD A. HAMMOND, JR., and  
15 SPENCE TOWNSEND, Individually, and as  
16 Board of Aldermen of the City of Winona,  
17 Mississippi

DEFENDANTS

18 DEPOSITION OF LONNIE L. BLAYLOCK

FILED

19 APPEARANCES:

20 HONORABLE BILLY R. GIBSON  
21 Gibson & Newlin  
22 Post Office Box 355  
23 Bruce, MS. 38915

AUG 10 1978

*Sherry J. Hunter*

(REPRESENTING PLAINTIFF)

24 HONORABLE LUTHER P. CRULL, JR.  
25 Liston, Crull & Gibson  
Post Office Box 645  
Winona, MS. 38967

(REPRESENTING DEFENDANTS)

26 Taken at the instance of the Defendants  
27 in the law offices of Gibson & Newlin,  
28 South Newburger Street, Bruce, Missisippi,  
29 on August 8, 1978, at 10:00 A.M.

SARAH M. RICE  
COURT REPORTER

109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

|                                       |        |
|---------------------------------------|--------|
| Style of Cause & Appearances-----     | 1      |
| Stipulation-----                      | 2      |
| Cross Examination by Mr. Crull-----   | 2 - 55 |
| Direct Examination by Mr. Gibson----- | 56     |

S T I P U L A T I O N

It is stipulated by and between all Parties that the deposition of Lonnie L. Blaylock is being taken pursuant to the Federal Rules of Civil Procedure; that all formalities, including notice and the signature of the deponent, are hereby waived, but that all objections, except those as to the form of the question, are reserved until such time as the deposition, or any part thereof, is sought to be introduced into evidence.

LONNIE L. BLAYLOCK,

after having been first duly sworn, was examined and testified under oath as follows, to-wit:

CROSS EXAMINATION

BY MR. CRULL:

Q Mr. Blaylock, you don't mind if I call you Lonnie, do you?

A No.

Q Okay. Lonnie, have you been advised by Mr. Gibson, your attorney, why we are here today? To take your deposition?

A Right.

Q And you understand that I'm going to be asking questions on behalf of all the defendants in this case that concerns an occurrence which is described in your Complaint that you filed in Federal District Court in Oxford? Do you understand that?

1 A Right.

2 Q If at anytime I ask you some questions that you  
3 don't understand or that you want to consult Mr. Gibson about,  
4 you understand you have a right and feel free to talk to him  
5 before you answer the questions.

6 A Okay.

7 Q What is your full name, please, sir?

8 A Ronnie Ladell Blaylock, Sr.

9 Q What is your age?

10 A 35.

11 Q What is your present address?

12 A Route 4, Box 3088, Grenada.

13 Q Do you live in Grenada or outside of Grenada?

14 A I live at Gore Springs, but that's my mailing  
15 address.

16 Q And that is in Grenada County?

17 A Yes.

18 Q What is your present marital status?

19 A I am married.

20 Q What is your wife's name?

21 A Janet

22 Q And when were you married?

23 A February 9, 1977.

24 Q Do you have any children?

25 A Two.

1 Q And I believe those are by a former marriage?

2 A Right.

3 Q And what are their names and ages?

4 A Lonnie Ladell Blaylock, Jr.; he's 13. That's my  
5 son. I have a daughter. My daughter is Ledatha Lynn Blay-  
6 lock. She's 10.

7 Q Mr. Blaylock, we're taking this deposition con-  
8 cerning the Complaint which you filed in Federal District  
9 Court and more particularly, an occurrence which happened  
10 on October 9, 1976 approximately 12:30 A.M. at Elceros  
11 Cafe in Winona, Mississippi. And in your Complaint you  
12 alleged certain facts against John Marlow and John Johnson,  
13 city policemen for Winona, and also the Board of Aldermen of  
14 Winona and the mayor. Are you familiar with the facts that  
15 you've alleged in your Bill of Complaint?

16 A Yes, sir.

17 Q Now, directing your attention to the night of  
18 October 9, 1976, well, early morning, approximately 12:30  
19 for a 12 hours period for that time, Mr. Blaylock, I would  
20 like for you to tell me what you had been doing.

21 A Just in my own words what I had been doing?

22 Q Right.

23 A Well, that day I spent most of the day at home.  
24 About 3:30 that afternoon I picked my children up at school;  
25 took them home. Later I fixed their evening meal. I took

1     them to the movie. The movie started about seven. I took  
2     them to the movie that evening. While they were at the movie,  
3     I went to visit with Tootie McNeer. He's a friend of mine.

4             Q     Is that Herbert McNeer?

5             A     Right.

6             Q     Tootie McNeer is a nickname?

7             A     Yeah. Be hard for me to call him Herbert. I've  
8     called him Tootie all my life.

9             Q     I have too. So you say you went to visit Mr.  
10    McNeer?

11            A     Yeah.

12            Q     Where was he?

13            A     He was at home.

14            Q     And where is his home?

15            A     In Winona. And we rode around. We rode over to  
16    Greenwood and back and I came back to pick my children up at  
17    the movie about 9:30 when they got out of the movie.

18            Q     Let me stop you here now. You say you and Mr.  
19    McNeer drove to Greenwood. Where did y'all go in Greenwood?

20            A     No particular place. Just riding.

21            Q     Just rode around?

22            A     Yeah.

23            Q     And during this time until the time you got back  
24    to Greenwood, had you and Mr. McNeer had anything to drink?

25            A     Yeah. We stopped at the pool hall in Greenwood

1 and drank a beer.

2 Q What did y'all go to the poolroom for? Anything  
3 in particular?

4 A As far as I know, it was nothing. Just stopped to  
5 have a beer.

6 Q Okay. How many beers did you drink there, Mr.  
7 Blaylock?

8 A One.

9 Q Did Mr. McNeer have anything to drink there?

10 A He had a beer.

11 Q And then when y'all were driving back-- Did you  
12 then drive back towards Winona?

13 A Yeah.

14 Q Did y'all have any beer on the way back?

15 A We had a mixed drink on the way back. We stopped  
16 and got something to mix a drink.

17 Q Did you have to buy any liquor over there or did  
18 you have liquor in the car with you?

19 A I believe I had something to drink with me.

20 Q You had some to start with. In other words, when  
21 you left Winona, y'all had something in the car with you.

22 A Well, I think I had some in the truck of the car  
23 that I kept in there.

24 Q And were y'all in your car?

25 A Right.



1 Q What kind of car was that?

2 A A '75 Thunderbird.

3 Q Were you driving?

4 A Right.

5 Q So you had a beer and a mixed drink on the way  
6 back and I think you said in your interrogatories and on  
7 deposition you picked the children up at the show?

8 A Right.

9 Q Okay. And then what did you do?

10 A I took the children home and Tootie was with me.  
11 Herbert was with me. I went back over to Herbert's house  
12 and we stayed at his house probably an hour or hour and a  
13 half or something like that and had a couple of drinks. We  
14 were just visiting and talking.

15 Q Were those mixed drinks or were those beers?

16 A Mixed drinks.

17 Q What kind of drinks were they? What kind of liquor  
18 was it?

19 A Vodka.

20 Q Was anybody present at Mr. McNeer's house?

21 A No.

22 Q What was the address at his house over there?  
23 What was it then?

24 A I don't know what the address is. It was where he  
25 was living before he moved into the house he just bought

1 across the railroad there. Jimmy Costilow's house.

2 Q Okay. You went to Mr. McNeer's house and you say  
3 you stayed there until about 10:30 or 11:00?

4 A Yeah, 10:30 or 11:00. We decided we would ride  
5 out to the Old Rebel. Go out and visit awhile and maybe drink  
6 a beer.

7 Q And the Old Rebel, I think we all know where that  
8 is. It's located--

9 A It's a tavern in Carroll County.

10 Q West of Winona; right?

11 A Right.

12 Q And how many beers did you drink out there?

13 A I don't remember whether I drank a beer or maybe  
14 had a mixed drink with me that I went in with. I might have  
15 drank one beer. I really don't-- I possibly drank a beer.

16 Q What you're saying you might have possibly taken  
17 a mixed drink in with you and then had a beer?

18 A I might have.

19 Q Who all was present at the Old Rebel when you were  
20 there? As best you can remember.

21 A Joan Tremble I know was there.

22 Q John Tremble?

23 A Joan. The owner Jack Diette.

24 Q Is that Little Jack or Big Jack?

25 A Little Jack.

1 Q Anybody else that you recall?

2 A I don't know. It was a good many people out there,  
3 Putt.

4 Q You just can't recall?

5 A I don't really remember. I used to go out there a  
6 good bit, but I don't remember who all was out there.

7 Q About how long did you stay at the Old Rebel?

8 A Stayed till a little after 12:00.

9 Q What you said here in your interrogatories, you  
10 said that you drank a few beers at the Old Rebel and you had  
11 several mixed drinks at Mr. McNeer's house and you had some  
12 beer prior to that. Is that correct?

13 A Right.

14 Q Can you just tell me approximately how many beers  
15 that you think you had from the time that you started  
16 drinking beer that night until the time that you left the  
17 Old Rebel?

18 A Really I couldn't tell you.

19 Q Just an estimate.

20 A You know just sociably drinking. I would say  
21 probably at Herbert's house I had 2 or maybe 3 mixed drinks  
22 before we went out to the Old Rebel.

23 Q Okay. And you said you had one mixed drink on the  
24 way back from Greenwood and said you had one beer at the  
25 poolroom; is that right?

1           A     Possibly. I don't know exactly. It may not have  
2 been but one or two drinks. I don't really know exactly how  
3 many drinks it was.

4           Q     As far as how many beers you had at the Old Rebel  
5 to your best estimate?

6           A     No. I may have drank one beer.

7           Q     Now when you were at the Old Rebel, did anything  
8 unusual happen there? Did you have any type of argument with  
9 anybody or anything?

10          A     I sort of acted up. Right.

11          Q     Do you know who you were having trouble with?

12          A     I believe I had — I don't know whether you would  
13 call it an argument or not with Jack the owner.

14          Q     Little Jack?

15          A     Yeah.

16          Q     What was the reason for the argument?

17          A     I don't know. I tell you the truth I think I was  
18 having a problem with my diabetes. I have insulin reactions  
19 sometimes. They do me like that. I don't believe I had had  
20 that much to drink. I believe between my drinking and my  
21 sugar diabetes was probably the cause of the reaction that I  
22 was having.

23          Q     Tell me what happens when you have that insulin  
24 reaction.

25          A     It's something similar to being a heavy drinker.

1 Q Okay. And of course, before this time you were  
2 familiar with that fact and you knew that when you had this  
3 insulin reaction that you would act like that?

4 A Yeah. I've had them lots of times.

5 Q Did that come on most of the time when you were  
6 drinking?

7 A Sometimes they do; sometimes they don't. It's  
8 just according to how much insulin you have in your body.  
9 It's something that you don't know when you're going to have  
10 it.

11 Q But you were familiar with the fact at that time  
12 that at times when you were having drinks that you would have  
13 this insulin reaction; is that correct?

14 A I have had a few. I've had more when I wasn't  
15 drinking than I have when I was drinking. But I have had  
16 them.

17 Q Okay. What I'm trying to say is at this time you  
18 were familiar with the fact that at times when you were  
19 drinking you had this insulin reaction also?

20 A I've never thought about it that I would have one  
21 when I was drinking or that I would have one when I'm not  
22 drinking. That reaction is just something that comes on you.  
23 You don't know you're having it.

24 Q What I'm saying is that before October 9, 1976, you  
25 had had this insulin reaction before at times when you were

1 drinking?

2 A A time or two, right.

3 Q When you were out at the Old Rebel, Lonnie, did you  
4 have anything as far as having to do with some money out  
5 there? Were you burning any money out there or anything?

6 A Not that I know of.

7 Q Were you showing any money out there?

8 A I don't know. I've had people tell me that I had  
9 a twenty dollar bill or something. They don't know whether  
10 I tore it up or something, but it was something involved  
11 about a twenty dollar bill.

12 Q Of course, Little Jack would have been there.  
13 Whatever was supposed to have happened about this twenty  
14 dollar bill, he would have been there? Is that right?

15 A He was there that day.

16 Q Then you and Mr. McNeer left the Old Rebel; is  
17 that correct?

18 A Right.

19 Q And you were in your car and you were driving?

20 A Right. Now, Herbert never did go in out there.

21 Q He never went in the Old Rebel?

22 A No.

23 Q Mr. McNeer stayed in your car for an hour? Approx-  
24 imately an hour?

25 A I believe Herbert was asleep. He wasn't asleep

1 when I went in but when I got back he was asleep.

2 Q Didn't y'all have a wreck that night before y'all  
3 went to Elceros?

4 A A wreck?

5 Q Yeah. In your car?

6 A No. You mean driving with somebody?

7 Q A wreck in your car.

8 A I don't recall a wreck. It's been two years nearly

9 Q So when y'all left the Old Rebel, y'all were  
10 driving from the Old Rebel to Elceros towards Winona and  
11 that's going east on 82?

12 A Right.

13 Q Did you have any trouble driving from the Old  
14 Rebel to Elceros? Did you have a wreck at that time?

15 A No.

16 Q Now, just you and Mr. McNeer were in the car; is  
17 that correct?

18 A Right.

19 Q Now where was this bottle of Vodka at that time,  
20 Lonnie?

21 A The bottle of Vodka didn't have much in it. I  
22 don't believe it was but one drink I mixed out of the Vodka.

23 Q Okay.

24 A Now, I didn't do any drinking while I was at the  
25 Old Rebel. I may have drank one mixed drink that I had

1 mixed.

2 Q And you said possibly that you might have had a  
3 beer?

4 A I might have had a beer. I'm not positive.

5 Q Is that the reason y'all were going back to Winona  
6 to get a cup of coffee?

7 A No. We was going home. When we got to Elceros,  
8 it was just customary to stop and have a cup of coffee and  
9 visit with people.

10 Q And when you pulled into the parking lot, where  
11 did you park? On what side of the parking lot?

12 A Parked right in front of the restaurant.

13 Q When you parked there, could you see the people  
14 inside?

15 A Yes, sir.

16 Q Did you notice the people when you pulled up?

17 A Yes, sir.

18 Q Did you notice the policemen? When I say policemen,  
19 I'm talking about Patrolmen John Johnson and Johnny Marlow.

20 A I didn't particularly pay attention to who it was.

21 Q But you noticed there were two policemen inside?

22 A Right.

23 Q Did you notice their police car?

24 A Yeah. I was parked-- I think I was parked pretty  
25 close to the police car.



1 Q Okay. Now, I understand that when you pulled up  
2 that you and Mr. McNeer sat in the car for a while. Is  
3 that correct?

4 A Right.

5 Q About how long did you sit in the car?

6 A I don't know. He was asleep and I was trying to  
7 get him to go in and drink a cup of coffee with me. I was  
8 trying to get him awake.

9 Q About how long did y'all sit out there?

10 A I wouldn't say but maybe 5 minutes at the most.

11 Q What were y'all talking about?

12 A I was trying to get him to go drink a cup of  
13 coffee with me before I went home.

14 Q What did he say to you about that?

15 A I don't remember what he said. I was trying to  
16 wake him up. Trying to get him to go in and drink a cup of  
17 coffee with me.

18 Q Now, what was Mr. McNeer's condition?

19 A Herbert had been drinking. He might have had a  
20 few more drinks than me. I don't know whether he had dranked  
21 any that day or not. I don't know. He hadn't drank no more  
22 than I had that night.

23 Q Do you know why he didn't want to go in?

24 A At Elceros?

25 Q Yes.

1           A     Because he had been asleep.

2           Q     When you went into Elceros, tell me who was there.

3           A     Ruby Blaylock, L. C. Blaylock, Millie Pittman, Roy  
4     Hathcock, Janet. It was Janet Caldwell at that time. I'm  
5     married to Janet now. And it was somebody else when I went  
6     in the door. L. C. was talking to some man. I don't know  
7     what his name is. I know him, but I don't know his name.

8           Q     Now, are Ruby and L. C. Blaylock related to you?

9           A     Ruby married my first cousin. He's deceased now.

10          Q     So Ruby and L. C. they are-- Are they married?

11          A     No. Ruby I believe was working at L. C.'s and  
12     L. C. is not any relation to me.

13          Q     When you got in the restaurant, Lonnie, just in  
14     your own words tell me what you did.

15          A     I went over to the round table, what everybody  
16     called the round table. I used to go to Elceros a lot and  
17     drank coffee and that's where people normally sat. Everybody  
18     that knew each other always sat at the round table and that  
19     is where I went in and sat down. I sat down by Janet and  
20     Bruce. They were good friends of mine and I sat down by  
21     them and we were talking.

22          Q     When you went in, who was sitting at the round  
23     table?

24          A     John Johnson, Marlow, Millie, Roy Hathcock, Bruce  
25     Caldwell and Janet Caldwell.

1 Q Where did you sit in relationship to John Johnson  
2 and Janet Caldwell? Janet Blaylock now.

3 A The police officers were satting with their backs  
4 to the door at the front of the table facing the doors. At  
5 the round table. They were sitting with their backs to the  
6 door and the rest of them were sitting around the other side.  
7 And I sat down to the right of the policemen. Sat down by  
8 Janet.

9 Q In other words, you were sitting between Janet  
10 and Patrolman Johnson?

11 A I believe Marlow.

12 Q Walking in from your car into the cafe, there's  
13 been reports that you stumbled against Roy Hathcock's truck  
14 or having a hard time walking. Did you have a hard time  
15 walking from your car into Elceros?

16 A I don't think so.

17 Q Do you say you didn't or you just don't recall?

18 A I say I didn't. When I got out of my car, I may  
19 have put my hand on Roy's truck there because Roy's truck  
20 was satting I believe on the driver's side when I pulled up.

21 Q All right. You sat down by Patrolman-- By a  
22 police officer and you said you think it was Marlow?

23 A If I remember right, I believe Marlow was sitting--  
24 When I sat down, I would be sort of facing both of them.

25 Q All right. What happened then?

1           A     Nothing happened as far as just a conversation.  
2 Talking to everybody and Johnson asked me to go outside. He  
3 wanted to talk to me.

4           Q     Let me ask you this. Were you talking to anybody?

5           A     Yeah. I was talking to Janet and I was talking to  
6 Bruce. I talked to Johnny Johnson some.

7           Q     And what did you say to John?

8           A     I don't recall the exact words I said to Johnny.

9           Q     Did you say words to Patrolman Johnson to the effect  
10 that I've had to much to drink, John?

11          A     I don't believe so.

12          Q     Did you say words to the effect that I'm drunk,  
13 aren't I, John?

14          A     That I was drunk?

15          Q     Yeah.

16          A     If I said anything like that, I was saying it to  
17 all of them in a joking way like I normally do when I'm  
18 talking to them. I joke about things and everything. I  
19 didn't deliberately just look at the police officer and tell  
20 him I was drunk.

21          Q     What you're saying is--

22          A     But I'm not saying I wasn't drinking now.

23          Q     So you won't deny that you said that you were  
24 drunk? You just don't recall or what?

25          A     I've been knowing John Johnson all my life. I've

1 always considered him my friend. Everytime we've ever sat  
2 up at Colemans we have sat and talked and everything. I've  
3 been up there before and had a few beers. There's nothing  
4 to hide because a lot of more people come in there lots of  
5 times when they have had a few drinks. So it's nothing--  
6 I wasn't the type person that would go in and try to get in  
7 a corner somewhere and hide that I had had a few beers.

8 Q There have also been reports that when you were  
9 talking with Patrolman Johnson that you were trying to bet  
10 Patrolman Johnson something. Do you recall that?

11 A Trying to bet with him?

12 Q Do you recall trying to bet something with John?

13 A No. I didn't bet with nobody.

14 Q Do you recall having any kinds of conversations  
15 about betting?

16 A You mean seriously betting?

17 Q Well, or kidding.

18 A I don't believe I did. I don't recall talking  
19 about betting. It's been two years ago, Putt. It's hard  
20 to say exactly what exact words were said when I was in  
21 there.

22 Q I understand. It would be hard for me to remember  
23 that far back. What you're saying, Lonnie, is simply that  
24 you can't recall if there was anything said about betting  
25 one way or the other?

1           A     I was carrying on with Johnny. I know that. And  
2 I was talking to him and I bet him something about-- I don't  
3 remember the exact words. Something about Jack was the best  
4 friend that I had and Bruce and so forth, but I don't recall  
5 the exact words that were said about the bet.

6           Q     Okay. But of course, when you went in, you  
7 recognized-- Were Johnny Marlow and John Johnson in uniform?

8           A     Right.

9           Q     And you could tell and distinguish them as being  
10 police officers, law enforcement officers?

11          A     I had come in before and sat with John Johnson  
12 and them and had coffee with them. I've sat with them up  
13 at Vic's Restaurant and had coffee with them.

14          Q     Of course, you recognized the fact-- As you stated  
15 before, you recognized there were police officers in Elceros  
16 before you went in?

17          A     Yeah.

18          Q     And also as you've testified in your own words in  
19 your interrogatories that you had had several drinks, either  
20 beer or mixed drinks?

21          A     Yeah.

22          Q     Before you went in.

23          A     I had had some drinks.

24          Q     Lonnie, don't you think under the circumstances  
25 because you had had several drinks, either beer or liquor,

1 and recognizing that there were two police officers in Elceros,  
2 it would have been better for you to just have gone to your  
3 house and gotten a cup of coffee?

4 BY MR. GIBSON:

5 Ojbject to the form of the question, but go ahead  
6 and answer it.

7 BY THE WITNESS:

8 No. I'll answer it because as far as a police  
9 officer satting somewheres or me or anybody else, I wasn't  
10 trying to hide that I had had some drinks. I had never tried  
11 to hide that I had had some drinks. I wasn't trying to run  
12 from no police officer. I went in because they were friends  
13 and I've always considered them as friends. And I went in  
14 to sat down and drink a cup of coffee with friends. As far  
15 as them being a police officer, I didn't think about them  
16 being a police officer. I went in there to sit down with  
17 friends.

18 BY MR. CRULL: (continuing)

19 Q And of course, you knew-- It's common knowledge  
20 that one of the police officers duties is to enforce the law;  
21 is that correct?

22 A Yeah. If you have--

23 BY MR. GIBSON:

24 I object to the form of the question, but go ahead  
25 and answer it.

1 BY THE WITNESS:

2 If you had broken the law to the extent that you  
3 need correcting about what you had done.

4 BY MR. CRULL: (continuing)

5 Q About how long would you say you were in Elceros?

6 A About 10, maybe 15 minutes.

7 Q Then what happened?

8 A John Johnson asked me to come outside; he wanted to  
9 talk to me.

10 Q And what happened then?

11 A When I got outside, he told me to get in the car.  
12 That's the very words he said. He said, get in the car.

13 Q In whose car?

14 A Get in the police car.

15 Q And then what happened?

16 A That's when I asked him, I said, John, you asked  
17 me to come out here; you wanted to talk to me. And I asked  
18 him what he wanted to talk to me about and that's when John  
19 Johnson hit me.

20 Q Isn't it a fact that he grabbed your right arm  
21 first, Lonnie, and then you pulled your right arm back from  
22 him?

23 A No.

24 Q You deny that?

25 A I don't believe he put a hand on me before he hit



1 me. He pointed at the car and told me to get in the car.  
2 And when he did, I turned sideways and turned and looked at  
3 him and asked him what he wanted to talk to me about. He  
4 asked me to come outside. Just like I would have done any-  
5 body else. If somebody else had asked me to come outside  
6 they wanted to talk to me, that's what I was expecting. Him  
7 to talk to me when I went outside.

8 Q Do you deny for the record that he put his hand  
9 on your right arm and you pulled away?

10 A I did not pull away from him.

11 Q Well, do you deny that he put his hand on your  
12 right arm? Before he hit you.

13 A I don't believe he did. He could have.

14 Q When he said for you to get in the car, did he tell  
15 you that you were under arrest for public drunkenness?

16 A He did not. He told me just like I said. He said  
17 for me to get in the car. That's when I asked him the ques-  
18 tion. That's when I asked him, Putt, what do you want to  
19 talk to me about?

20 Q Let's go back a little bit now. John Johnson and  
21 Johnny Marlow went out first; is that right?

22 A Well, one of them went out first. I think Marlow  
23 went out first and then John asked me to come outside he  
24 wanted to talk to me.

25 Q But you deny for the record also that John told you

1 you were under arrest for public drunkenness?

2 A Right.

3 Q When you went outside, where was John Johnson  
4 located in reference to the door?

5 A Going out the door, he was right to the left of  
6 the door. Where my car was parked. He was at the front of  
7 my car.

8 Q In other words, your car would have been just to  
9 the west of the door?

10 A Right.

11 Q About how many feet would you say it was?

12 A To the west I would say 4 or 5 feet. It was pulled  
13 up, you know. When I got out, Roy's truck was pulled up  
14 right in front of the door.

15 Q And then the patrol car was on which side of your  
16 car?

17 A I don't really know exactly which side it was on.  
18 I remember the patrol car being there though. To the best of  
19 my knowledge, I believe it was to the left of Roy's pickup  
20 between the outside of the parking lot there and Roy's pickup.

21 Q That would have been on the eastside of Roy's  
22 pickup?

23 A Right.

24 Q And your car was on the westside?

25 A Right.

1 Q When we're talking about Roy, you mean Roy Hath-  
2 cock?

3 A Right.

4 Q So you say Patrolman Johnson was to the left of  
5 the door when he went out. And when you went out, where  
6 were you standing?

7 A When I went out, I walked up to the hood of my car.  
8 Johnson was over there. That's why I walked out there so I  
9 could talk to John. John was already out.

10 Q When you went out, which way were you facing?  
11 When you got out there and were going to talk to John, which  
12 way were you facing?

13 A I was standing with my back or either my right side  
14 facing the window of the restaurant. He was standing at the  
15 front of my car sort of between Roy's pickup and sort of  
16 behind the front of my car. Between Roy's pickup and my car.  
17 And when I walked out, I walked up to the front of the pick-  
18 up and he would have been standing more toward 51 Highway  
19 than I would when I was talking to him.

20 Q So which way was he facing?

21 A He was facing sort of the southeast. Sort of  
22 looking maybe toward, not where the door is, but maybe where  
23 the glass of the restaurant was at that time.

24 Q He would have been looking southwest?

25 A Southwest.

1 Q But he was standing a little bit more toward the  
2 north than you were; is that right?

3 A Right.

4 Q And were you looking back towards him when you were  
5 talking to him?

6 A I was looking at him when I was talking to him.

7 Q Now tell me what happened then. We've got you out  
8 there and y'all were both situated out there and then what  
9 happened?

10 A When I walked out there, the first thing he said  
11 was, Lonnie, get in the car. And naturally, he had asked me  
12 on the inside to come outside that he wanted to talk to me.  
13 I asked him what he wanted to talk about.

14 Q And then what happened?

15 A That's when he hit me.

16 Q That's when he was standing up by your car and you  
17 was standing up by your car?

18 A In front of my car, right.

19 Q Just the way you described it before.

20 A Right.

21 Q When you first got by your car, how far was John  
22 Johnson from you at that point?

23 A The distance I couldn't tell you, Putt. I walked  
24 out there where he was and we were standing there talking.

25 Q About a table length apart like we are right now?

1 Or was it closer?

2 A I would say closer than that because he wanted to  
3 talk to me and I went out there to talk to him.

4 Q Can we say as an estimate 2 or 3 feet?

5 A If you want to use an estimate, I would say a  
6 couple of feet or 3 feet.

7 Q And you deny for the record that he put his hand  
8 on your right arm?

9 BY MR. GIBSON:

10 He's already denied it about 3 times.

11 BY THE WITNESS:

12 I don't recall his putting his hand on my arm. If  
13 he put his hand on there, he did it when he told me to get  
14 in the car. Because I remember him pointing to the car and  
15 telling me to get in the car. And that's the very words he  
16 used. He said, Lonnie, get in the car.

17 BY MR. CRULL: (continuing)

18 Q How long was it after that that you say he hit  
19 you?

20 A After I asked him. I said, John, you asked me to  
21 come out here and talk to you; what did you want to talk to  
22 me about, and that's when he hit me.

23 Q Did you ever draw your right hand back or make a  
24 fist out of your right hand?

25 A No, I did not.

1 Q When he hit you, what happened then?

2 A I don't remember now.

3 Q Where did he hit you?

4 A He hit me in the face.

5 Q On which side of the face?

6 A All of my injuries were on my left side.

7 Q When he hit you, what happened to you? Did you  
8 continue standing up or did he knock you down?

9 A He knocked me down.

10 Q Did you go back against the building at that point?

11 A Yeah. I hit the glass.

12 Q Then did you fall down to the pavement?

13 A Yeah.

14 Q And when you fell down, did you hit your face on  
15 the pavement?

16 A I don't know, Putt. I don't remember. I don't  
17 remember after he hit me. As far as I can remember, I have  
18 a vague remembrance until we got to the hospital.

19 Q So after he hit you the best you can remember, tell  
20 me what happened then.

21 A That I can remember?

22 Q Yes.

23 A I have very little-- As far as remembering what  
24 happened then . . .

25 Q Do you recall being by the police car?

1           A     I can vaguely remember. The way I remember it I  
2 was laying on the ground by the police car. What little I  
3 can remember about it, I was on the ground.

4           Q     Do you recall anything about standing up by the  
5 door of the police car with your hands on the door?

6           A     No.

7           Q     Do you recall Patrolman Johnson hitting you by the  
8 car?

9           A     No.

10          Q     So really from the time you got hit the first time  
11 until what point is it that you remember after that?

12          A     I can remember being up at the hospital and I can  
13 remember-- I've tried and tried to think, you know, to try  
14 to remember something about it. But I can remember one  
15 time it seems that I was laying by the car. It would have  
16 to be the police car or . . .

17          Q     As far as what happened the time that you got hit  
18 the first time until when you got to the hospital, you're  
19 saying for the record that the only thing you remember is  
20 that you were lying by the police car at one point?

21          A     Right.

22          Q     You don't recall where you went before you went to  
23 the hospital; is that correct?

24          A     No.

25          Q     When you went to the hospital, who took you to the



1 hospital?

2 A The police officers took me that night.

3 Q Who was that?

4 A John Johnson and Marlow.

5 Q Do you know why they took you to the hospital?

6 A I figured they could look at me and tell that I  
7 needed to go to the hospital.

8 Q So at that point, they were offering to let you  
9 have medical assistance?

10 A The way I understand it, Putt, I don't think they  
11 offered anything. I remember vaguely being at the jail. It's  
12 my understanding that they took me to the jail first and was  
13 given advice to take me to the hospital.

14 Q But you don't know that?

15 A I don't recall just exactly how it happened.

16 Q Let's get to the jail then the first time.

17 A I remember being at the hospital. That's when I  
18 can really start remembering things. And I remember after I  
19 got back to the jailhouse, I remember.

20 Q Let's go to the first time. Undoubtedly what  
21 happened the first time they took you from Elceros to the  
22 jail the first time and then from that point they took you  
23 to the hospital. I think we can establish that. Do you  
24 recall making a statement the first time you went to jail  
25 when Herbert McNeer was talking about getting the lawyer you

1 made the statement to Herbert, you said, Herbert, you know  
2 we're drunk?

3 A No, I don't.

4 Q You don't recall that?

5 A No.

6 Q So you can neither admit or deny that you made that  
7 statement.

8 A Right. I don't deny that I was drinking, but I  
9 don't say that I was drunk either.

10 Q Let's go back to the time right before you went to  
11 Elceros. Of course, when you've been drinking, you have the  
12 alcohol smell about you; is that right?

13 A Right.

14 Q And how was your speech at that time? As far as you  
15 could tell, was your speech normal or were you having any  
16 problems talking?

17 A No. I knew I had been drinking some. I knew my  
18 speech was off, but I don't believe it was all my drinking  
19 though, Putt. I believe my diabetes had a lot to do with  
20 it because I have insulin reactions. I'm just like a drunk  
21 when I have an insulin reaction. I don't know what I'm  
22 doing. I have no memory. I lose my memory of it, but I'll  
23 have them for spells and I'll get over them. Which I have  
24 had them and gone on and been in the hospital with them.

25 Q So what you're saying is when you have these

1 insulin reactions you give the appearance of having had a lot  
2 more to drink than you have actually drunk?

3 A Right.

4 Q Of course, to the average layman that would see you  
5 with this insulin reaction, he wouldn't know if you had been  
6 drinking or if you were having an insulin reaction, would he?

7 BY MR. GIBSON:

8 Object to the form of the question. Answer it.

9 BY THE WITNESS:

10 Possibly not if he didn't know that I was a diabetic.  
11 Johnson knew that I was a diabetic. Everybody in there knew  
12 that I was a diabetic.

13 BY MR. CRULL: (continuing)

14 Q What I'm saying is your condition that night would  
15 have given the appearance that you had been drinking too  
16 much or that you were drunk.

17 A Right. I don't say that I was drunk or that I had  
18 been drinking too much. I don't know whether my appearance  
19 gave that or not. But I know about what I had been drinking.

20 Q What I'm saying is taking into consideration the  
21 several drinks that you had had and also your insulin re-  
22 action, with that coupled with the drinking, your insulin  
23 reaction, you would have given the appearance that you had  
24 been drinking heavily? With your insulin reaction taking  
25 effect on your body.

1 A Possibly, right.

2 Q Like you said with this insulin reaction you appear  
3 to be drunk sometimes.

4 A What do you call drunk?

5 Q Well, as far as blurry speech, the way you handle  
6 yourself, your gait.

7 A Insulin reaction does cause my speech to slur.

8 Q What about as far as the way you walk or move  
9 around?

10 A Right.

11 Q So it has an effect on that too?

12 A Right.

13 Q So it gives the appearance to somebody who didn't  
14 know you were having an insulin reaction that you had been  
15 drinking too much and you could have been drunk?

16 A Right.

17 Q And you stated for the record that that night you  
18 were having an insulin reaction.

19 A I don't know. I don't know when I have them. I  
20 have no way of knowing. I've had insulin reactions and wake  
21 up in the hospital and didn't know-- Don't remember any of it.

22 Q Now when you went into the hospital, what part of  
23 the hospital did you go into?

24 A Emergency Room.

25 Q Who was present when you went in?

1           A     The nurse. I don't recall her name.

2           Q     Would that have been Shirley Fields?

3           A     Possibly was. I don't know Shirley Fields. I may  
4 know her if I see her, but as far as her name, I don't know  
5 her.

6           Q     Were there any disturbances at the hospital?

7           A     I would say it was because I was upset. I was  
8 trying to get somebody to help me. John Johnson with the  
9 assistance of Marlow had beat me and that would be enough to  
10 upset anybody. And I would say I begged the nurse and any-  
11 body I could beg up there to not let me leave with them or  
12 get somebody else to keep me away from them and not let me  
13 be around them because I was scared of them.

14          Q     Were you using any type of profanity?

15          A     I don't know, Putt.

16          Q     How long did you stay at the hospital?

17          A     I don't know. Whatever time-- Nothing was done to  
18 me at the hospital at that time.

19          Q     Do you know what was done to you? Was anything  
20 done to you at the hospital that night?

21          A     As far as seeing a doctor or having anything done  
22 to the cuts that I had, nothing was done.

23          Q     Did a nurse dress your cuts or clean your cuts?

24          A     I believe she cleaned my cuts a little bit, but  
25 she didn't bandage my cuts or anything. She left my lip laid

1 wide open with no bandage on it.

2 Q All right. I think you saw Ralph Mitchell out there  
3 that night?

4 A Right.

5 Q Of course, Ralph, he's your former father-in-law?

6 A Right.

7 Q Father of your former wife.

8 A My childrens' grandparent.

9 Q Okay. Did you see Ralph before you went in the  
10 hospital or after you came out?

11 A After I came out, I believe.

12 Q And you were, of course, in the custody of Johnson  
13 and Marlow when you were going out and then you saw Mr.  
14 Mitchell?

15 A Right. I was trying to get somebody to keep-- To  
16 help me and not let them take me out of there because I was  
17 scared they might do something else to me. And Ralph talked  
18 to me. Ralph is the one that talked to me to get me to calm  
19 down and ride back to the police station with them. Because  
20 I was mighty upset about it.

21 Q Did you threaten Mr. Mitchell or anything that  
22 night?

23 A Not that I know of.

24 Q After you got your children back to the house and  
25 then you left and went to Mr. McNeer's house and y'all went

1 to the Old Rebel and then everything else occurred. How old  
2 were your children at that time, Lonnie?

3 A That's been almost two years ago. The girl was--  
4 I gave the age a while ago as 10. She turned 11 in July so  
5 she would have been 9. The boy is 13. He would have been--

6 Q So they would have been two years younger at that  
7 time?

8 A Right.

9 Q They would have been 11 and 7?

10 A 9. Her birthday is in July and it was in the latter  
11 part of the year in October.

12 Q And so where were the children when all this was  
13 going on?

14 A They were at home.

15 Q Was anybody with them?

16 A No. They knew where I was at all times though.  
17 Because anytime if I was ever out of the house and my children  
18 were there by themselves they knew exactly where I would be.  
19 Before I went that night-- Before I went out to the Old Rebel  
20 that night I called my children and told them I was going.

21 Q Didn't you get upset with Mr. Mitchell that night  
22 because of the fact that you thought he was going to try to  
23 take your children away from you?

24 A No. Why would he be--

25 BY MR. GIBSON:



1 Don't ask him questions. Just answer them. I love  
2 you. I'm on your side, but don't ask him questions.

3 BY MR. CRULL: (continuing)

4 Q When you went back to jail the second time, what  
5 happened then, Lonnie?

6 A I was put in jail.

7 Q And when you got back there Billy Costilow was  
8 there; right?

9 A Right.

10 Q And Billy is the Sheriff of Montgomery County?

11 A Right.

12 Q And was sheriff then. Who put you in the jail cell?

13 A I believe Johnson or Marlow one put me in there. I  
14 was talking to Billy. Billy was there. The person that keeps  
15 the jail--

16 Q Vanburg?

17 A Vanburg. He lives out close to my mother. He was  
18 there. We were talking to all of them. I don't know who  
19 actually opened the cell and put me in there.

20 Q Isn't it a fact that when you walked in and saw  
21 Billy-- By the way, is Billy related to you in any way?

22 A First cousin.

23 Q Isn't it a fact that when you walked in the jail  
24 the second time when you saw Billy that you then turned to  
25 Johnson and started some trouble with Johnson at that time?

1           A     No.

2           Q     You deny the fact that you turned to John and more  
3 or less squared off at John at that point?

4           A     I wouldn't think I did. I tried to talk to Billy.  
5 I begged Billy them to try to do something about what had  
6 been done to me. And Billy left it up to the city police.

7           Q     My question is do you admit or deny that when you  
8 got back in the jail the second time, Lonnie, before they put  
9 you in the cell that you more or less turned on Johnson and  
10 squared off with Johnson at that point?

11          A     What do you mean squared off?

12 BY MR. GIBSON:

13               He means to make threatening actions toward him.  
14 Did you do that?

15 BY THE WITNESS:

16               I never tried to fight anybody that night. I tried  
17 to protect myself. Up at the hospital when we were leaving  
18 the hospital, I tried my best to get him not to let me get  
19 back-- I tried to get Ralph and all of them up there and any-  
20 body I could talk to to try not to get back in the car with  
21 them. Because I didn't want to go anywhere else with them.  
22 They had done beat me. My mental state was mighty-- I was  
23 pretty well upset.

24 BY MR. CRULL: (continuing)

25          Q     I can understand that. Do you know if anything

1 happened between you and Johnson at the jail the second time?

2 A As far as him beating me any more?

3 Q As far as any--

4 A He did not beat me any more at the jail; no.

5 Q As far as anything you did toward John. Did you  
6 make any statements to John when you went into the jail the  
7 second time? When Billy was there.

8 A I don't recall, Putt. I recall I was upset.  
9 Possibly crying. I believe I was crying. I feel like that I  
10 probably begged Billy Costilow, my first cousin, to help me.

11 Q All right. Let's take 5 years before October 9,  
12 1976, had you been in any type of prior physical violence or  
13 any fights or anything for the 5 year period before then?

14 A Word the question again.

15 Q Had you been in any fights or had any physical  
16 violence with anybody else say 5 years before this happened?

17 A You talking about had I been beat by a police  
18 officer, no.

19 Q Have you been in any fights with anybody else?  
20 Not a police officer just any other civilians.

21 A No.

22 Q Let's say for a 7 year period before then had you?  
23 Had you been in any type of fights?

24 BY MR. GIBSON:

25 Object to the question, but go ahead.

1 BY THE WITNESS:

2 The only fight that I-- I don't mind telling you.  
3 The only fight that I have ever had prior to that that I  
4 recall is one day — it may have been 10 years before that —  
5 I was out at the Old Rebel one afternoon, and it really  
6 wasn't a fight. Me and a fellow had some words. We never  
7 did even swing a lick at each other. We may have wrestled  
8 a little bit, but there never was any licks swung. I don't  
9 know just how far back that was.

10 BY MR. CRULL: (continuing)

11 Q How long had you been going out to the Old Rebel  
12 say drinking beer or drinking mixed drinks?

13 A I was born and raised in Winona. When I was living  
14 in Winona, I always-- I was not a regular customer, an every-  
15 day customer, but there were occasions I went out there.

16 Q As far as drinking beer and having mixed drinks,  
17 how long have you been doing that? You say you're 35 now.  
18 How long? What age were you when you started?

19 A It was after I finished high school because I  
20 played football in high school and I never took a drank until  
21 after then.

22 Q So it would have been sometime while you were 18  
23 or 19 years old? Somewhere in there?

24 A Right.

25 Q Now, I have asked an interrogatory here have you

1 ever forfeited bond or pled guilty to or been convicted of  
2 any crime, including any alcohol related crimes such as  
3 public drunkenness or driving while intoxicated or driving  
4 while under the influence of alcohol? You listed two times  
5 down here. One time was a DUI charge in Greenwood in '73.

6 A Roughly '73.

7 Q About '73. And then about '75 a DUI charge in  
8 Harrison County, Gulfport, Mississippi; is that right?

9 A Right.

10 Q When I say DUI, I mean driving while under the  
11 influence of intoxicating beverages.

12 A Right.

13 Q We understand those terms as being the same; is  
14 that right?

15 A Right.

16 Q Have you had any other-- Have you remember any  
17 other offenses?

18 A No.

19 Q These are the only two charges you have ever for-  
20 feited, pled guilty to or been found guilty of?

21 BY MR. GIBSON:

22 Excuse me. Of course the present charge. We didn't  
23 list it because it's still on appeal.

24 BY MR. CRULL: (continuing)

25 Q And other than the ones arising out of this

1 occurrence on October 9th.

2 A That's the only times that I ever recall having  
3 any kind of charge.

4 Q Let me ask you, Lonnie, before this had you and  
5 Patrolman Johnson ever had any conflicts or anything?

6 A No.

7 Q In the interrogatories you answered the question  
8 that you were totally disabled, a hundred percent disabled.

9 A Right.

10 Q What's the reason for that?

11 A I'm a hundred percent service connected because  
12 of my sugar diabetes, the state of my sugar diabetes.

13 Q Are you rated as hundred percent disabled by the  
14 Veterans Administration?

15 A By the Veterans Administration in Jackson.

16 Q Do you receive any benefits? Monetary benefits?

17 A Right. I receive the hundred percent rating.

18 Q About how much is that a month?

19 A \$852.00.

20 Q How long have you been receiving that amount?

21 A I became disabled November 1974. I was in the  
22 hospital for about 3 weeks and they advised me not to go back  
23 to work and gave me a hundred percent rating.

24 Q And before then you were working for REA as a  
25 terminal manager?

1 A Right.

2 Q You had been working for REA about 10 years before  
3 that time?

4 A Yes. Ten years, 5 months I believe it was.

5 Q And then in '74 is when you quit working for REA?

6 A Right.

7 Q In other words, as far as your allegations against  
8 the defendants in this case, you're not alleging any lost  
9 wages at all?

10 A No.

11 Q Because you weren't working at the time.

12 A I was hundred percent disabled. I haven't worked  
13 since '74.

14 Q In Interrogatory 19 you answered the question that  
15 you lost time because of the injuries you received. When you  
16 say lost time, what do you mean? Lost time from what?

17 A My time. I have time. Just because I'm disabled  
18 to work I still have time. I'm a human being just like any-  
19 body else. I lost time going to the doctor's office, to the  
20 hospital, the expense of my car. I feel like I'm just like  
21 anybody else as far as the time. I still have to live even  
22 though I'm a hundred percent disabled.

23 Q As far as the injuries, Lonnie, state into the  
24 record the exact physical injuries you received, and give  
25 their locations.

1           A     Physical injuries, I had a half inch cut to my  
2 left upper lip. I had bruises and skinned places above my  
3 left eyebrow. I had skins on my left arm. I had bruises on  
4 my neck, my left shoulder, and lower back. Especially my  
5 lower back.

6           Q     And how long did these injuries persist?

7           A     Well, the bruises and so forth one or two weeks and  
8 the time in them healing up. That was the bruises over my  
9 eye and my arm. The skinned places healing up. And my lip  
10 has still got a knot in it and stays tender. It's got a sore  
11 place in it. It's got a hard knot in it. And as far as the  
12 bruises in my back and shoulder and neck, I had for 4 or 5  
13 months I still had pain in my back. And then my shoulder and  
14 neck, it wasn't as bad in my shoulder and neck as my back.

15          Q     How many stitches did you have in your lip?

16          A     I really don't-- I didn't ask Dr. Middleton how  
17 many he put in.

18          Q     Is that Dr. William Middleton?

19          A     Dr. William Middleton.

20          Q     In other words, what you're saying right now is  
21 the only physical injuries that you still have as far as you  
22 can determine is your left lip has a hard knot in it and it's  
23 tender?

24          A     As far as physical. I have a lot of mental pain  
25 about it.



1 Q But I'm talking about physical. That's the only  
2 physical injuries that you are still having right now?

3 A The knot in my lip and the soreness in my mouth.

4 Q As far as your neck and back and bruises and every-  
5 thing else above your eye and your arm, they all got over  
6 with at-- They lasted about 4 or 5 months after this happened?

7 A Right.

8 Q As far as the physical injuries you've stated,  
9 what treatment did you have for these injuries?

10 A I had the treatment that Dr. Middleton gave me the  
11 next morning. I stayed in jail all night with a cut in my  
12 lip and the bruises that I had. And my brother went with me  
13 the next morning to the hospital and Dr. Middleton put  
14 stitches in my upper lip. He dressed the bruises and skinned  
15 places over my eye. And my eye was all swollen. My lip was  
16 swollen. And he dressed the skinned places I had on my arm,  
17 neck, and back and shoulder.

18 Q How many times did you see Dr. Middleton?

19 A I saw him that morning and then I went back to his  
20 office and followed up, you know, to have the stitches taken  
21 out.

22 Q About how long was that after the first time?

23 A About a week.

24 Q Did you see Dr. Middleton anytime after that for  
25 these injuries?

1           A     For the beating that Johnson give me, I don't recall  
2     seeing him again after that. I have seen him since then, but  
3     it's far my sugar diabetes.

4           Q     So you went to the hospital the night it happened  
5     and the nurse saw you there and then you saw Dr. Middleton  
6     the day after it happened and then approximately a week after  
7     that. Is that the extent of you seeing the doctor or going  
8     to the hospital for these injuries?

9           A     The only other time I would go for a checkup every  
10    3 months at the VA. And it's been probably 8 or 10 years. I  
11    had a little surgery on my eye and I told--

12   BY MR. GIBSON:

13               He's talking about in connection with this beating.

14   BY MR. CRULL: (continuing)

15           Q     I'm talking about in connection with what happened  
16    out there between you and Johnson and Marlow.

17           A     Right. That's the only times.

18           Q     You went to the hospital the night it happened and  
19    then to Dr. Middleton the next morning--

20           A     Right, and saw Middleton the one time followup after  
21    that.

22           Q     Middleton the day after it happened and then  
23    approximately a week after that.

24           A     Right.

25           Q     As far as any hospital bills-- Of course, the

1 hospital was Attala-Holmes Memorial Hospital; is that right?

2 A Right.

3 Q As far as any hospital bills, do you know what the  
4 doctor or hospital bills were?

5 A I don't have any idea what the bills were. As  
6 a hundred percent disabled through the VA, I have a card that  
7 authorizes payment through the VA and any medical bills I  
8 have I present that card and the VA is billed and I never know  
9 what the charges are.

10 Q Did you take any medication because of the injuries  
11 you got from this occurrence?

12 A I took a shot that morning. I don't know what the  
13 shot was. Just what he gave me at the hospital.

14 Q Other than the shot, did you take any other medica-  
15 tion?

16 A No.

17 Q Do you recall as far as your face if your face hit  
18 the pavement or what was the situation about your face as far  
19 as the skinned places above your eye?

20 A I don't recall hitting the pavement. I hit the  
21 glass.

22 Q Have you had any other injuries because of the  
23 allegations in the Complaint?

24 A Say the question again.

25 Q Have you had any other injuries, other than the

1 ones you've talked about, because of the occurrence on  
2 October 9, 1976 which you set out in your Complaint?

3 A I have a lot of mental anguish due to the fact that  
4 I've never understood why I was beaten the way I was by  
5 Johnson with the assistance of Marlow. I never understood  
6 why I was held in jail all night without having something done  
7 to the injuries that I had. I don't know. Everytime I see  
8 a police officer now it comes into my mind. I just have a lot  
9 of mental pain about it.

10 Q What kind of mental pain? What does it do to you?

11 A It disturbs me and it makes me think if any police  
12 officer, you wonder if he is there as a police officer or  
13 does he take advantage of it and use it for something else.  
14 I just can't understand why a police officer, somebody that  
15 you would think would protect you, would do something like  
16 was done to me.

17 Q What affect does that have on you?

18 A What do you mean?

19 Q You think about these things, but how do they affect  
20 you as far as the way you act or the way you can handle your-  
21 self?

22 BY MR. GIBSON:

23 He's talking about your nervousness and your  
24 sleeping and things like that, Lonnie. He's talking about  
25 physical reactions that you have from it. If you have any

1 tell him. If you don't, tell him that too.

2 BY THE WITNESS:

3 I have sleeping problems. I don't know whether  
4 it's because of that or what. But I think about it a lot.

5 BY MR. CRULL: (continuing)

6 Q Now, are you employed anywhere presently?

7 A No.

8 Q Is your wife employed anywhere?

9 A She's employed at Jerry Jay's in Vaiden.

10 Q And what does she do down there?

11 A She's a cashier at the bar in the ballroom.

12 Q How many days a week does she work?

13 A She works on Wednesday nights and Friday and Satur-  
14 day nights.

15 Q That's really about the only days that they are  
16 open, isn't it?

17 A Yeah.

18 Q Now describe to me Jerry Jay's. You go down to  
19 Jerry Jay's--

20 A I go with her. That was the understanding I had--

21 BY MR. GIBSON:

22 I'm going to object to these questions. I don't  
23 see where they have any materiality whatsoever on this case.

24 BY MR. CRULL: (continuing)

25 I believe I can connect it up.

1 Q Lonnie, isn't it a fact that you are employed by  
2 Jerry Jay's as a supervisor and bouncer down there?

3 A No. When Janet started working down there, that's  
4 when Curt and Carolyn Glore had it. I told them I wouldn't  
5 let-- They had asked Janet about working. We knew them and  
6 they asked her. And that was the only way I would let her  
7 work down there. I would go down there with her. And I do  
8 a few odds and ends, you know, just to be down there.

9 Q Do you go down there with her whenever she goes  
10 down there?

11 A Yeah, I sure do. I wouldn't want her down there  
12 without me.

13 Q You say odds and ends. What are the odds and ends  
14 you do down there?

15 BY MR. GIBSON:

16 I want a continuing objection to all these questions.

17 BY MR. CRULL: (continuing)

18 Q Let me ask you this. I'm going to connect it up.

19 A I would get Janet's ice and I sort of watch the  
20 floor a little bit.

21 Q Isn't it a fact, Lonnie, that they used to -- I  
22 don't know if they still do or not now -- they don't pay you  
23 directly but they pay what they would pay you to Janet in her  
24 check for the money they pay her?

25 A They pay me nothing.

1 Q But isn't it a fact that they pay Janet additional  
2 to what they would pay her normally to take care of you being  
3 down there?

4 A No.

5 Q So you deny for the record that in some form that  
6 you are compensated for being down at Jerry Jay's?

7 A I'm not paid anything for being down at Jerry Jay's.

8 Q Neither you or your wife are paid for you being  
9 down there?

10 A She's paid for working. She works. Normally all  
11 I do is stand up by the bar.

12 BY MR. GIBSON:

13 If they pay him a thousand dollars a month, I don't  
14 see what it's got to do with this lawsuit. I object.

15 BY MR. CRULL: (continuing)

16 Q When you say that you are looking or supervising  
17 the floor, what exactly do you mean by that, Lonnie?

18 A I don't supervise the floor. I just come down there  
19 and I sort of watch the floor. If there are any disturbances,  
20 I will help Hank or anybody with them.

21 Q In other words, if there are any problems there  
22 or if anybody gets rowdy or anybody wants to start a fight,  
23 then you're going to step in and help somebody to stop it?

24 A On most occasions, yes.

25 Q Describe Jerry Jay's to me. Tell me what Jerry

1 Jay's is.

2 A Jerry Jay's country disco and lounge. They don't  
3 have a lounge open, but Jerry Jay's is just a ballroom where  
4 they have a live band and people go to dance.

5 Q They have a band and/or disco and they serve beer  
6 there; right?

7 A Yes.

8 Q People can bring their bottles in and they have  
9 setups?

10 A Right.

11 Q Wouldn't you classify what you're doing as far as  
12 watching the floor if there are any disturbances that you are  
13 more or less tending as a bouncer for the place?

14 A I wouldn't call it that, Putt, because I don't  
15 have to go down there. I just go down there with Janet. I'm  
16 not employed down there. I receive no money for what I do  
17 down there. I'm not employed. I just go down there with her.

18 Q Have you ever had to assist in getting somebody  
19 out of Jerry Jay's because of any disturbance or anything?

20 A Physically?

21 Q Or just walk up to them and tell them to get out or  
22 calm it down? Have you ever had to physically or verbally  
23 stop a disturbance down at Jerry Jay's?

24 A Yeah. I've asked people to calm down; right.

25 Q So that is one of the things you do down there is



1 calm down disturbances and keep everything in order.

2 A I help them; yeah.

3 Q And you deny for the record that Janet receives  
4 additional pay above what she would receive for you being  
5 down there?

6 A Janet is paid a salary and I receive no money.

7 Q Is Janet paid more than the other waitresses or  
8 cashiers down there?

9 A She's the only cashier down there. I don't know  
10 what the waitresses make. I know she's paid more than the  
11 waitresses, but I don't know what the waitresses make. The  
12 waitresses depend on their tips. Their pay balances out to  
13 about the same. But waitresses in any bunge, I think, is  
14 based on their tips.

15 Q How long has Janet been working down there?

16 A Started the latter part of last year. I believe  
17 she started the latter part of November of last year.

18 Q Of '77?

19 A Yeah.

20 Q When did it open? It opened about that time, too,  
21 didn't it?

22 A No. It opened a while before then.

23 Q Did you go down there before then? Before she  
24 started working down there?

25 A Yeah.

1 Q On Wednesdays, Friday and Saturday nights?

2 A I went down there when we were going out, you know,  
3 to party or go out and go somewhere.

4 Q Then when Janet started working down there in the  
5 latter part of '77, that's when you started going down there  
6 with her every Wednesday, Friday and Saturday night?

7 A Yeah.

8 Q And that's when you started at that time assisting  
9 whoever the other people are there keeping down disturbances  
10 either verbally or physically?

11 A Yeah. When I started going down there with Janet.

12 Q Of course, we are all familiar with what a bouncer  
13 is, Lonnie. And a bouncer is somebody that more or less keeps  
14 everything calm and keeps disturbances down. In all candor,  
15 you are assisting in doing that, aren't you?

16 BY MR. GIBSON:

17 Object to the form of the question.

18 BY MR. CRULL: (continuing)

19 Q You are assisting in being a bouncer at Jerry Jay's.

20 A Yeah. I go down there with Janet and I stand  
21 around and watch.

22 Q I've just got one more question. I want to make  
23 sure I'm straight on this. Your testimony was that from the  
24 time that John Johnson hit you the first time standing out  
25 there in the vicinity of your car outside Elceros, from that

1 time until you got to the hospital is the first time you  
2 remember anything after he hit you the first time?

3 A Clearly remember anything.

4 Q Do you remember anything about him hitting you  
5 any more?

6 A I don't remember him hitting me any more.

7 Q You don't remember anything that you did after he  
8 hit you the first time?

9 A No.

10 BY MR. CRULL:

11 I have got no further questions.

12 DIRECT EXAMINATION

13 BY MR. GIBSON:

14 Q Lonnie, did you offer any resistance whatsoever to  
15 Officers Marlow and Johnson before they hit you?

16 A No.

17 Q And this Jerry Jay's place, where is that at?

18 A That's in Vaiden.

19 Q Have you ever beat up any drunks over there?

20 A No.

21 BY MR. GIBSON: That's all.  
22 (The deposition of Mr. Blaylock was completed  
23 at 11:16 A.M. of the same morning.)  
24  
25

CERTIFICATE OF COURT REPORTER

I, Sarah M. Rice, Court Reporter and Notary Public in and for the County of Leflore, State of Mississippi, hereby certify that the foregoing 55 pages constitute a true and correct transcript of the testimony of Lonnie L. Blaylock as taken by me on the date and at the time and place heretofore stated, and later reduced to typewritten form to the best of my skill and ability.

I further certify that I placed the witness under oath to truthfully answer all questions propounded to him in his deposition, under the authority vested in me by the State of Mississippi.

I further certify that I am not in the employ of nor related to any Counsel or Party in this matter, and have no interest whatsoever in the outcome of this proceeding.

WITNESS MY SIGNATURE AND SEAL, this the 9th day of August, 1978.



SARAH M. RICE

(SEAL)

My Commission Expires:

April 22, 1979

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF MISSISSIPPI

POST OFFICE BOX 1353

GREENVILLE, MISSISSIPPI 38701

J. DAVID ORLANSKY

MAGISTRATE

August 16, 1978

Mrs. Sherry Hunter  
Deputy Clerk  
United States District Court  
P. O. Box 727  
Oxford, Mississippi 38655

Re: Naomi H. Chesteen, etc.  
VS.  
Vernon R. Chesteen  
No. WC 77-23-S

Dear Sherry:

Enclosed for the jacket file in the above action is an order which I have signed. Copies are being sent to the persons listed below.

Very truly yours,



J. David Orlansky

JDO:mfn  
Enclosure

cc: Hon. William Liston, Attorney at Law, P. O. Box 645, Winona,  
Ms. 38967  
Hon. Michael G. McLaren, Attorney at Law, 100 N. Main Bldg.,  
Suite 3500, Memphis, Tn. 38103  
Hon. Orma R. Smith, United States District Judge, P. O. Box  
1519, Corinth, Ms. 38834

RECEIVED

AUG 18 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

LISTON, CRULL & GIBSON

ATTORNEYS AT LAW  
128 NORTH QUITMAN AVENUE  
P. O. BOX 645  
WINONA, MISSISSIPPI 38967  
TELEPHONE 601 283-2132

WILLIAM LISTON  
LUTHER P. CRULL, JR.  
HUGH GIBSON  
FRANKLIN J. GEORGE  
ALAN D. LANCASTER

August 18, 1978

EUPORA OFFICE:  
P. O. DRAWER G  
EUPORA, MISSISSIPPI 39744  
TELE. 601 258-7855  
GRENADA OFFICE:  
P. O. BOX 656  
GRENADA, MISSISSIPPI 38901  
TELE. 601 226-2424

Ms. Sherry Hunter, Deputy Clerk  
United States District Court  
P. O. Box 727  
Oxford, Mississippi 38655

RE: Blaylock vs. Johnson, et al.  
Cause No. WC 77-21-S

Dear Sherry:

Transmitted herewith is copy of Civil Subpoena served on  
Herbert McNeer for discovery deposition.

Please file the same.

Yours very truly,

LISTON, CRULL & GIBSON

By Luther P. Crull, Jr.  
Luther P. Crull, Jr.

LPCjr/lm  
Enclosure - 1

RECEIVED

AUG 21 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

## United States District Court

ISSUED IN BLANK

FOR THE

NORTHERN DISTRICT OF MISSISSIPPI

CIVIL ACTION FILE NO. WC77-21-S

Lonnie L. Blaylock - Plaintiff

vs.

John J. Johnson, et al. - Defendants

To Herbert McNeer

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the Northern District of Mississippi, at the law offices of Liston, Crull & Associates in the city of Gibson, 128 North Quitman Avenue, on the 21st day of August, 1978, at 10:00 o'clock A.M. to testify on behalf of the defendants on discovery deposition in the above entitled action.

August 16, 1978.

Attorney for defendants

Winona, Mississippi 38967  
Address

Norman L. Gillespie, Clerk

By *[Signature]* Clerk.  
Deputy Clerk.

## RETURN ON SERVICE

Received this subpoena at Winona, Mississippi, on August 16, 1978, and on August 17, 1978 at Winona, Mississippi, I served it on the within named Herbert McNeer by delivering a copy to him and tendering to him the fee for one day's attendance and the mileage allowed by law.<sup>1</sup>

Dated August 17, 1978.

By *[Signature]*

## Service Fees

|          |    |       |
|----------|----|-------|
| Travel   | \$ | .20   |
| Services |    | 20.00 |
| Total    | \$ | 20.20 |

Subscribed and sworn to before me, a notary public this 17th day of August, 1978.

MY COMMISSION EXPIRES MARCH 6, 1982

*[Signature]*

Note:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy. Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825.

FILED

AUG 21 1978

NORMAN L. GILLESPIE, CLERK  
by *[Signature]* Deputy

August 22, 1978  
109 Beatrice Street  
Greenwood, MS. 38930

Honorable Norman L. Gillespie  
U. S. District Court  
P. O. Box 727  
Oxford, MS. 38655

In re: Lonnie L. Blaylock  
Vs. John M. Johnson, et al.  
No. WC 77-21-S

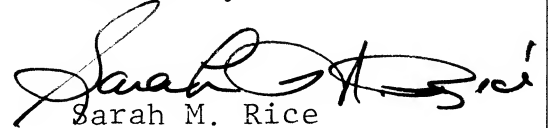
Dear Mr. Gillespie:

Enclosed herewith are the original depositions of  
Herbert McNeer, John Johnson, and the Board of Aldermen of  
the City of Winona as taken by me in connection with the  
above styled and numbered cause.

I would appreciate your assistance in filing these  
transcripts with the court file in this matter.

Thank you.

Sincerely,

  
Sarah M. Rice

Enclosures (3)

RECEIVED

AUG 24 1978

CLERK OF DISTRICT COURT  
U.S. DISTRICT COURT  
GREENWOOD, MISSISSIPPI



1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
3 WESTERN DIVISION

4 LONNIE L. BLAYLOCK

PLAINTIFF

5 VS.

NO. WC 77-21-S

6 JOHN M. JOHNSON, Individually, and  
7 as an Officer of the Winona,  
8 Mississippi Police Department; JOHN  
9 MARLOW, Individually, and as an  
10 Officer of the Winona, Mississippi  
11 Police Department; GARY MOORE,  
12 Individually, and as Mayor of the  
13 City of Winona, Mississippi, M. E.  
14 DAVES, BILLY LANCASTER, HARRY LEE  
15 ROBINSON, EDWARD A. HAMMOND, JR.,  
16 and SPENCE TOWNSEND, Individually  
17 and as Board of Aldermen of the  
18 City of Winona, Mississippi

DEFENDANTS

**FILED**

**AUG 24 1978**

*John J. Gale*  
CLERK

19 DEPOSITION OF HERBERT McNEER

20 APPEARANCES:

21 HONORABLE BILLY R. GIBSON  
22 Gibson and Newlin  
23 P. O. Box 355  
24 Bruce, MS. 38915

(REPRESENTING PLAINTIFF)

25 HONORABLE LUTHER P. CRULL, JR.  
Liston, Crull & Gibson  
Post Office Box 645  
Winona, MS. 38967

(REPRESENTING DEFENDANTS)

Taken at the instance of the Defendants  
in the law offices of Liston, Crull &  
Gibson, 128 North Quitman, Winona, MS.  
on August 21, 1978 at 10:15 o'clock A.M.

SARAH M. RICE  
COURT REPORTER

109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

|  |         |
|--|---------|
| Style of Cause & Appearances-----      | 1       |
| Stipulation-----                       | 2       |
| Direct Examination by Mr. Crull-----   | 2 - 29  |
| Cross Examination by Mr. Gibson-----   | 29 - 39 |
| ReDirect Examination by Mr. Crull----- | 39 - 43 |
| Certificate of Court Reporter-----     | 44      |

S T I P U L A T I O N

It is stipulated by and between all Parties that the deposition of Herbert McNeer is being taken pursuant to the Federal Rules of Civil Procedure; that all formalities, including notice and the signature of the deponent, are hereby waived, but that all objections, except those as to the form of the question, are reserved until such time as the deposition, or any part thereof, is sought to be introduced into evidence.

HERBERT MCNEER

after having been first duly sworn, was examined and testified under oath as follows, to-wit:

DIRECT EXAMINATION

BY MR. CRULL:

Q Would you state your full name.

A Herbert McNeer.

Q And Mr. McNeer, did you receive a subpoena to attend the deposition today?

A Yes, sir.

Q And what is your age, please, sir?

A 40.

Q What's your present address?

A 304 Pecan Drive.

Q And that's in Winona, Mississippi?

A Winona, Mississippi.

SARAH M. RICE  
COURT REPORTER

109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1 Q And back in October, more specifically October 9,  
2 1976, what was your address on that date?

3 A I was living on 503 Walthall.

4 Q In Winona, Mississippi?

5 A Right.

6 Q Mr. McNeer, we're here talking today about an  
7 occurrence that took place on or about October 9, 1976 in the  
8 early morning hours at Elceros Restaurant on Highway 82 west  
9 in Winona that involved Lonnie Blaylock. Were you with Mr.  
10 Blaylock on that night?

11 A Yes, sir.

12 Q Now this involved the occurrence on that date  
13 in which you and Lonnie eventually got put in jail. Do you  
14 understand which occurrence we're talking about?

15 A Yes, sir.

16 Q When did you first see Lonnie? I guess this would  
17 have been on October 8th because if anything happened in the  
18 early morning of October 9th, it would have been October 8th  
19 when you had first seen him? Is that correct?

20 A You mean . . .

21 Q When did you first see Lonnie Blaylock?

22 A Well, I saw him 2 or 3 times that day in the  
23 cafe over a cup of coffee or something like that.

24 Q About what time was that?

25 A Well, we drank coffee that day around one o'clock.

1 Q In the afternoon?

2 A Yes, sir.

3 Q That was the afternoon before this occurrence took  
4 place?

5 A Right.

6 Q And where did you have coffee?

7 A Elceros.

8 Q When was the next time you saw him?

9 A I don't know exactly the time but he came over to  
10 my apartment after I got off work. It was late that after-  
11 noon. I don't know exactly. It's been so long ago. I  
12 couldn't tell you the time. It was late that afternoon.

13 Q About what time, if you recall?

14 A God, I don't know. I couldn't tell you exactly  
15 what time he came over that afternoon.

16 Q To your best estimate. I know it's hard to look  
17 back that number of years ago, but to your best estimate.

18 A I would say six or seven o'clock. Somewhere along  
19 in there.

20 Q Do you know why he came over to your apartment?

21 A Yes, sir. He came by to visit.

22 Q Was anybody there besides you at your apartment  
23 then?

24 A No, sir.

25 Q Digressing a little bit, you and your wife have

1 divorced; is that correct?

2 A Right.

3 Q And you were living separate from your wife; is  
4 that correct?

5 A Well, I'm re-married now?

6 Q But then you were living separate from your wife?

7 A Right.

8 Q When Mr. Blaylock came over, what did y'all do?

9 A We sat around and had a few drinks.

10 Q When Mr. Blaylock came over then, how many drinks  
11 did Mr. Blaylock have?

12 A I don't remember. We sat around and we had 3 or 4  
13 drinks. I would just say 3 or 4.

14 Q What kind of drinks were you having?

15 A We were drinking mixed drinks.

16 Q What were you mixing them with? What was Mr.  
17 Blaylock-- Was he mixing them with Vodka or Scotch or Bourbon?  
18 What was it?

19 A As well as I remember, he was mixing Vodka and  
20 grapefruit. I may be wrong, but as well as I remember, that's  
21 what he was drinking.

22 Q You say that when Mr. Blaylock came over he had  
23 3 or 4 mixed drinks of Vodka and grapefruit juice?

24 A Yes.

25 Q And how many drinks did you have?

1 A About the same.

2 Q And then what happened?

3 A Well, he carried his kids to the show and came  
4 back to my apartment and we decided to ride over to Greenwood.

5 Q He left your apartment and you understand he went  
6 to pick up his children?

7 A Yes, sir.

8 Q And then took his children from where they were  
9 living to the show?

10 A Yes, sir.

11 Q He didn't have the children with him when he was  
12 at your apartment?

13 A No.

14 Q About what time did he leave your apartment the  
15 first time to take his children to the show?

16 A I don't know. I don't even know what time the  
17 show starts. It was right at the time for the show to start.

18 Q From the time he had come to see you from that  
19 time until time for them to go to the show, he had time to  
20 have 3 or 4 drinks and then he left and took his children  
21 to the show?

22 A Yes.

23 Q How long was it after he left your apartment that  
24 he came back?

25 A It was just shortly. I mean as soon as he carried

1 his kids to the show.

2 Q He came back?

3 A Yes, sir.

4 Q How many drinks did he have at that point after  
5 that?

6 A You mean after he came back?

7 Q Right.

8 A Well, we went to Greenwood straight after that.

9 Q When you were going to Greenwood, how were you  
10 travelling to Greenwood?

11 A In Lonnie's car.

12 Q Was Lonnie driving?

13 A Yes, sir.

14 Q Did y'all have any drinks going from Winona to  
15 Greenwood?

16 A I don't believe so, unless we carried one with us.  
17 I don't think we had one on the way over there.

18 Q Would you disagree if Mr. Blaylock testified that  
19 he had a beer or a drink going to Greenwood from your house?

20 A I wouldn't disagree because it has been so long  
21 ago I could have forgot.

22 Q You say you were going to Greenwood?

23 A Yes, sir.

24 Q Where were you going in Greenwood?

25 A No particular place. We were just riding around.



1 Q And y'all wound up at the poolroom over at Green-  
2 wood, didn't you?

3 A Yeah.

4 Q And what did y'all do at the poolroom?

5 A Just stayed around there and shot the bull.

6 Q Did y'all have a drink in the poolroom?

7 A We had a couple of beers at the poolroom.

8 Q You say each of y'all had a couple of beers at the  
9 poolroom?

10 A Yes.

11 Q Now, how long did you stay at the poolroom?

12 A I would say an hour. I'm just guessing here.  
13 Somewhere around an hour.

14 Q Did Lonnie take in his Vodka and have a mixed drink  
15 at the poolroom also or was it just beer?

16 A Just beer. We didn't have anything there.

17 Q Who was present at the poolroom as far as you can  
18 remember?

19 A God, I don't know. It was a bunch. It was a lot of  
20 people in there.

21 Q Anybody from Winona over there?

22 A No, sir. I don't believe it was.

23 Q Name the people from Greenwood that you remember.

24 A Well, let's see. There was Frankie Tominello and  
25 Sonny Tominello and David Brown from Itta Bena. That's about

1 the only ones I remember. Of course, there were a lot more  
2 there from Greenwood that I didn't know.

3 Q Isn't that a place, Herbert, where you book bets  
4 over there?

5 A I don't know about that.

6 Q Did you place any bets over there that night on any  
7 type of betting or game of chance?

8 A No, sir.

9 BY MR. GIBSON:

10 I object.

11 BY MR. CRULL: (continuing)

12 Q You deny you did that?

13 A No, sir. I didn't.

14 BY MR. GIBSON:

15 I would like a continuing objection as immaterial  
16 to any questions along there.

17 BY MR. CRULL: (continuing)

18 Q Did Mr. Blaylock place any bets?

19 A No.

20 Q So you had 3 or 4 drinks at your house of Vodka  
21 before you and Lonnie left for Greenwood and then when you  
22 got to the poolroom in Greenwood, you say you had about 2  
23 beers at the poolroom in Greenwood?

24 A Yes, sir.

25 Q I'm talking about you and Lonnie.

1 A Yes, sir.

2 Q And it was just you and Lonnie that went to Green-  
3 wood?

4 A Yes, sir.

5 Q Then what happened?

6 A Well, we left the poolroom and came on back to  
7 Winona.

8 Q And from Greenwood to Winona, did you have any  
9 drinks then?

10 A Yes, sir. We stopped and I think we got a can of  
11 grapefruit juice and Lonnie had a bottle in the car of some  
12 Vodka and I think we mixed a drink on the way home from  
13 Greenwood.

14 Q So y'all had a drink coming from Greenwood back to  
15 the house?

16 A Yes, sir.

17 Q When you were coming from Greenwood back to Winona,  
18 who was driving?

19 A Lonnie.

20 Q And what happened then?

21 A Well, we went and picked his children up from the  
22 show and carried them to his apartment and then we went back  
23 over to my apartment.

24 Q About what time was this that y'all got back to  
25 Greenwood and picked the kids up?

1           A     I don't know. Whatever time the show's out. I  
2 would say 9:30 or 10:00. Whenever the show's out. We got  
3 back in plenty of time to pick them up. We were waiting  
4 when the show was over. Whatever time the show is over. I  
5 don't know.

6           Q     And you took Lonnie's children back over to his  
7 apartment?

8           A     Yes, sir.

9           Q     And then went to your apartment?

10          A     Yes, sir.

11          Q     And then when you got to your apartment, what did  
12 you and Lonnie do then?

13          A     Well, we just sat around and had a couple of more  
14 drinks.

15          Q     A couple of drinks each?

16          A     Yes, sir.

17          Q     Then what did you do? What kind of drinks were  
18 those? Were they Vodka or beer?

19          A     They were mixed drinks.

20          Q     What did y'all do then, Herbert?

21          A     Lonnie wanted to go out to the Old Rebel to just  
22 see somebody.

23          Q     What did he say specifically about going to the  
24 Old Rebel?

25          A     I don't remember but he said he wanted to go out

1 there and see if he could run up on somebody. I've forgotten  
2 who it was.

3 Q In other words, it was Lonnie who brought up the  
4 conversation of going out to the Old Rebel?

5 A Right.

6 Q About what time was it then that y'all left going  
7 out to the Old Rebel?

8 A I don't know. We had come back from the show and  
9 spent some little time in my apartment. I couldn't say  
10 exactly what time it was.

11 Q Did Lonnie drive to the Old Rebel?

12 A Yes, sir.

13 Q And you were in the car with him. Was anybody else  
14 in the car with y'all?

15 A No.

16 Q When you got to the Old Rebel, what happened  
17 there?

18 A Well, Lonnie went on in and I told him I was just  
19 going to wait in the car on him. I didn't care nothing about  
20 going in the Old Rebel. I stayed in the car.

21 Q Why didn't you want to go in, Herbert? Do you  
22 mind if I call you Herbert?

23 A No. That's fine.

24 Q Why did you not want to go in the Old Rebel?

25 A Well, I don't know. I was tired. I didn't feel

1 like going in there and sitting around. Didn't have no  
2 reason to be in there and I just didn't feel like going in  
3 there.

4 Q Then Lonnie went in. How long did Lonnie stay in  
5 there?

6 A I don't know. While Lonnie was in the Old Rebel  
7 I fell asleep in the car.

8 Q Did Lonnie make any statements to you when he came  
9 back out?

10 A No, sir. He didn't even wake me up.

11 Q He didn't wake you up?

12 A No, sir.

13 Q What's the first thing you remember after you went  
14 to sleep in the car?

15 A Somebody pecking on my window.

16 Q Where was the car at that point?

17 A Out at Elceros. And I looked up and it was Marlow  
18 pecking on the window.

19 Q Is that Johnny Marlow?

20 A Yes, sir.

21 Q Was he a city policeman for the city of Winona at  
22 that time?

23 A Yes, sir.

24 Q Okay.

25 A And I turned the key on to let the power windows

1 down. I had to reach across to let the windows down.

2 Q Where were you sitting or lying in the car at this  
3 point?

4 A I was on the opposite side from the driver.

5 Q Which window was he pecking on?

6 A The driver's side. And I let the window down and  
7 said, what do you want? He said, get out of the car. This is  
8 the next thing I knew.

9 Q In other words, you don't recall anything from the  
10 time y'all pulled up to the Old Rebel until Mr. Marlow was  
11 pecking on the window and said for you to get out of the car?

12 A Right.

13 Q Then what happened?

14 A When I stepped out of the car, he caught me by the  
15 arm and said get in the police car.

16 Q What did you do?

17 A I got in the police car. He's a big fellow.

18 Q And then what happened?

19 A They carried me to jail.

20 Q From the time that Patrolman Marlow tapped on the  
21 window and you woke up at that point, that was the first  
22 time you knew anything was going on? You had been asleep?

23 A Right.

24 Q Did you see Lonnie after that? After Mr. Marlow  
25 tapped on the window? Did you see Mr. Blaylock after that?

1           A     Yeah. I saw him after I got in the police car.  
2 They were still beating him when I got in the police car.

3           Q     And where was Lonnie standing and where were these  
4 policemen standing? Where was everybody standing or located?

5           A     They were off from the car, but I could see them.  
6 At that time, I think it was just Johnson still beating  
7 Lonnie. There was a crowd of people then. There were people  
8 over here around the police car. In fact, when I saw what  
9 was going on, I hollered for L. C. to open the car door.  
10 You know on that backseat, a police car don't have any doors.  
11 And he opened the door and I started out and that's when Mr.  
12 Marlow shoved the door back and said, don't let him out. I  
13 was going to try to help Lonnie.

14          Q     Let me ask you now the police car was facing  
15 towards Elceros?

16          A     As well as I remember, it was kind of pulled in.  
17 It may have been pulled in this way or this way.

18          Q     But substantially it was facing north and south?

19          A     I would say so, yes, sir.

20          Q     And where was Mr. Blaylock's car in relationship  
21 to the police car?

22          A     It was pulled on up further in front of Elceros.

23          Q     Was there a car or anything between Lonnie's car--  
24 A car or pickup in between Lonnie's car and the police car?

25          A     I don't remember. It could have been. There were



1 several cars there.

2 Q And then when you looked out there and saw, as you  
3 say, Mr. Blaylock being beat up, where was Lonnie standing  
4 in relationship to where you were sitting?

5 A He was on the ground. He wasn't standing.

6 Q He was on the ground?

7 A Yes, sir.

8 Q Where?

9 A I don't know to the car, but it was close enough  
10 to the car that I could see what was happening.

11 Q Was it to the front of the car or to the side of  
12 the car?

13 A I'm going to say to the side of the car, because  
14 I was on the backseat and I could see what was happening.

15 Q You were looking out the front; is that right?

16 A No, sir. I was looking out the side window.

17 Q Side window. In other words, they were standing  
18 to the side of the car?

19 A They were out to the side or-- I could see what  
20 was going on looking from where I was sitting to the other  
21 side of the window.

22 Q You were sitting on the backseat of the patrol car?

23 A Yes, sir.

24 Q And which side of the backseat?

25 A On the righthand side.

1 Q And then you turned and you were looking to your  
2 left; is that correct?

3 A Yes, sir.

4 Q And as you looked straight sideways, that's when  
5 you saw Mr. Blaylock?

6 A Yes, sir.

7 Q And the patrolman?

8 A Yes, sir.

9 Q Tell me what you saw when you looked that way.

10 A He was on the ground and Mr. Johnson was beating  
11 him. Had him on the ground.

12 Q Mr. Blaylock was lying on the ground?

13 A At this time, yes, sir. He was on the ground.

14 Q If you were sitting on the right hand side, Herbert,  
15 looking out and he was on the ground, how far was Lonnie  
16 Blaylock from the car?

17 A Well, I could see him. I could see him between  
18 people. There was people out there.

19 Q Was there a pickup truck out there also?

20 A There was a pickup truck there. I don't know just  
21 where it was sitting.

22 Q How far was Lonnie from the pickup?

23 A I don't know. I really don't remember.

24 Q How far was the pickup from the police car?

25 A It couldn't have been too far because it was setting

1 in the second row there.

2 Q Are you saying there was a police car and then  
3 Lonnie was between the police car and the pickup truck?

4 A No. I don't remember just how the pickup was  
5 setting. In fact, I didn't even notice the pickup at the  
6 time.

7 Q But you saw Lonnie on the ground when you first  
8 saw him?

9 A Yeah.

10 Q Now tell me exactly what you saw.

11 A Well, I just told you. I just saw that he had him  
12 on the ground still beating him. He was still hitting him.

13 Q Who was hitting him?

14 A Mr. Johnson.

15 Q Was hitting who?

16 A Lonnie.

17 Q What was he hitting him with?

18 A His fist.

19 Q How many times did he hit him?

20 A Well, I don't know about that now. He was hitting  
21 him and then it looked like he was dragging him. It looked  
22 like he had him right here and was pulling him on the con-  
23 crete. That's when I started making moves to get out of the  
24 car and I hollered to L. C. to open the door and he did and  
25 when he did, Policeman Marlow shut it back and told him not

1 to let me out.

2 Q Then what happened?

3 A Well, right after the skuffle, Marlow and Johnson  
4 brought him and put Lonnie in the car with me.

5 Q Okay. Now I want to get this straight. You looked  
6 sideways and all this was going on right at the outside of  
7 the back door? Say if you were looking at Elceros, that would  
8 be looking south; is that right?

9 A The car could have been setting sideways. In fact,  
10 it seems like it was setting that way, but I was looking out  
11 the back window.

12 Q Looking out to your left. It would have been  
13 through the left rear door. You were looking out that way  
14 when you saw all this?

15 A Yeah. It was far enough away that I had a complete  
16 view.

17 Q As far as anything that happened in front of the car,  
18 you don't know anything that happened in front of the car?

19 A No, I didn't see it.

20 Q What you're saying for the record is that as far as  
21 anything that happened while Mr. Blaylock and Mr. Johnson  
22 were standing in front of the car or who swung the first  
23 blow or whatever happened in front of the car, you don't  
24 know anything about it?

25 A No, sir.

1           Q     The only thing you know about is what you saw and  
2 they were standing to the side of the car in the vicinity of  
3 the back, left door?

4           A     Yes, sir.

5           Q     Herbert, isn't it a fact that as you've testified  
6 you and Lonnie had about-- You said 3 or 4 drinks at first  
7 and we'll just say 3 drinks there. Y'all had about 8 drinks  
8 and the reason you were sleeping is you had had too much  
9 to drink.

10          A     No. I don't think I had had too much to drink.

11 BY MR. GIBSON:

12                 I object to the form of that question.

13 BY MR. CRULL: (continuing)

14          Q     You weren't cold sober though, were you?

15          A     Well, I had had a few drinks, but I had been up  
16 all night the night before, and I was tired, if you want to  
17 know the truth.

18          Q     You were tired and you were still kind of tight  
19 from having these 8 drinks, weren't you?

20          A     I could feel them, but I wouldn't think that was  
21 the reason. I wasn't passed out. I just fell asleep.

22          Q     How long do you think you had been asleep?

23          A     I have no idea there. I don't know exactly what  
24 time we got there and what time he woke me up. I don't know.  
25 It was 2, or 3, or 4 hours. I don't know how long it was.

1 Q You don't recall because you were sleeping and you  
2 don't recall Lonnie going into Elceros?

3 A No. I was asleep.

4 Q You don't recall Lonnie coming out of Elceros?

5 A No.

6 Q You don't recall anything that happened in front  
7 of the car at Elceros? Is that right?

8 A No. I told you when they woke me up that's all I  
9 know.

10 Q And the only thing you remember is at the left  
11 back side door, the left back door when they were skuffling?  
12 That's when you remember seeing Lonnie?

13 A Yes, sir.

14 Q What was Lonnie's condition? I guess the first  
15 time you would remember seeing him before this happened--  
16 What was Lonnie's condition when he was going in the Old  
17 Rebel? His condition as far as how he was handling himself.

18 A He was drinking, but he was handling himself okay.

19 Q Did he have a drink when he went in the Old Rebel?

20 A I have no idea about that.

21 Q And of course, you don't know whether he had any  
22 drinks when he went inside the Old Rebel?

23 A No, I don't.

24 Q You could tell Lonnie had been drinking when he  
25 went inside the Old Rebel; is that right?

1           A     Well, Lonnie can have one drink and you can tell  
2 he has been drinking. I mean I can because I have been  
3 around him that much.

4           Q     So if he had had about 8 drinks, you can tell he  
5 has been drinking then, can't you?

6           A     Yes, sir.

7           Q     Tell me how you can tell he's been drinking. Let's  
8 say when he was getting ready to go in the Old Rebel how  
9 could you tell Lonnie had been drinking, other than you  
10 knowing? How could you tell he had been drinking?

11          A     I don't know that there would have been any  
12 difference. Like I say, I've been around him so much I can  
13 might near tell when he has had one drink. You know because  
14 I've run around with him a lot and just know him.

15          Q     How is he changed as far as his actions when he  
16 hasn't had a drink to when he has had a drink? Or several  
17 drinks.

18          A     Well, a little slurry speech or something like that.

19          Q     Was his speech slurring a little bit that night  
20 when he went into the Old Rebel?

21          A     I don't think so. It wasn't that bad if it was.  
22 Of course, I knew he was drinking.

23          Q     Okay. I understand. How long have you known  
24 Lonnie?

25          A     Just about all my life.

- 1 Q Are y'all any relationship?
- 2 A No, sir.
- 3 Q No kin or anything?
- 4 A No, sir.
- 5 Q But you and Lonnie have been good friends all your
- 6 life?
- 7 A Yes, sir.
- 8 Q And y'all pal around together and do things to-
- 9 gether?
- 10 A Yes, sir.
- 11 Q Do you consider Lonnie one of your best friends?
- 12 A Lonnie is one of my better friends.
- 13 Q After you looked out and you say that you saw
- 14 Lonnie on the ground and saw Patrolman Johnson hitting him,
- 15 then what happened?
- 16 A Well, they brought him on and put him in the car
- 17 with me.
- 18 Q Then what happened?
- 19 A They rushed him on to the hospital and carried him
- 20 in the hospital.
- 21 Q Wait a minute now. After they had him in the car,
- 22 then what happened?
- 23 A They rushed him on over to the hospital.
- 24 Q Okay. And then what happened?
- 25 A They carried him in the hospital and they carried me



1 on down to the jail.

2 Q Did you hear Lonnie say anything during this  
3 period of time?

4 A Just moaning and groaning.

5 Q He didn't say any words to the effect that, Herbert,  
6 you know we're drunk, when you were talking about getting a  
7 lawyer?

8 A Talking about getting a lawyer?

9 Q When you were saying words to the effect that you  
10 were going to get a lawyer, Lonnie said words to the effect  
11 that, Herbert, you know we're drunk.

12 A I don't remember that, no, sir.

13 Q What do you remember that Lonnie said during this  
14 period of time?

15 A I don't remember that he said anything. Like I  
16 said, he was moaning and groaning and telling them to get  
17 him to the hospital. He said that time and time again; get  
18 me to the hospital.

19 Q So your testimony is that they went from Elceros  
20 to the hospital and got Lonnie seen about and they took you  
21 to jail?

22 A Yes, sir.

23 Q Your testimony is they didn't take Lonnie to jail  
24 first, they took him to the hospital first?

25 A Yes, sir.

1 Q And then they took you to jail?

2 A Yes, sir.

3 Q When was the next time you saw Lonnie?

4 A I don't know how long it was, but they brought him  
5 on down there to the jail.

6 Q And what happened then when Lonnie came in?

7 A I wasn't in a cell. They put us in a cell then.  
8 They had me just inside the building there.

9 Q What happened then when they brought Lonnie in?

10 A They put us in jail.

11 Q What did Lonnie do when they first brought him in,  
12 if anything? Was Lonnie talking loud or being loud or any-  
13 thing?

14 A Well, he seemed like he was saying something to  
15 Billy Costilow. Talking to Billy about what they had done  
16 to him. He could have been now. He probably was.

17 Q Did you hear Lonnie using any profanity?

18 A No, sir.

19 Q Did you observe Lonnie square-off or more or less  
20 at John Johnson?

21 A No, sir.

22 Q Who finally got Lonnie in the jail cell?

23 A I don't remember. In fact, it seems like he just  
24 walked in there. We were talking to Billy Costilow and the  
25 two of us just walked in with Billy Costilow as well as I

1 remember.

2 Q Herbert, have you ever been convicted of any  
3 crimes or misdemeanors including offenses for driving while  
4 under the influence or driving while intoxicated other than  
5 minor traffic violations?

6 BY MR. GIBSON:

7 I object to Counsel trying to impeach his own  
8 witness.

9 BY MR. CRULL: (continuing)

10 Q You can answer the question.

11 A Yes, I have been.

12 Q Would you just state for the record the times you  
13 have been convicted or pled guilty or forfeited bond to any  
14 offenses excluding minor traffic violations.

15 BY MR. GIBSON:

16 Continuing objection. Go ahead.

17 BY THE WITNESS:

18 I don't know the dates or nothing. I was convicted  
19 in California of DWI back when I was in the Marine Corp.

20 BY MR. CRULL: (continuing)

21 Q Approximately what year was that?

22 A I would say '61.

23 Q You were convicted of DWI then?

24 A Yes, sir.

25 Q Go ahead on.

1 A That's about the only one other than . . .

2 Q I'm talking about possession of liquor or any type  
3 of driving violations with liquor.

4 A I was picked up in Winona one time. My ex-wife  
5 had me picked up and I had a bottle and I think they did  
6 charge me with possession. But it was just possession, it  
7 wasn't . . .

8 Q Do you recall being found guilty of DWI, driving  
9 while intoxicated, before Douglas James, Justice of the Peace,  
10 District Court One in Grenada County on or about April 4,  
11 1977?

12 A They reduced that. I wasn't found guilty of DWI.

13 Q What were you found guilty of?

14 A DUI.

15 Q DUI, driving while under the influence. Okay. So  
16 you recall that?

17 A Yes, sir.

18 Q That was in about April of '77?

19 A Yes, sir.

20 Q Do you recall about April 4, 1977 that you were  
21 charged with possession of liquor and you were found guilty  
22 and paid a fine for possession of liquor before Douglas  
23 James' Court?

24 A Douglas James?

25 Q The Justice of the Peace in District One of Grenada

1 County?

2 A Is that the same one?

3 BY MR. GIBSON:

4 That's the same time.

5 BY MR. CRULL: (continuing)

6 Q Do you recall that?

7 A Yes, sir.

8 Q Do you recall that you were found guilty of carrying  
9 a concealed weapon on April 4, 1977 before Judge James in  
10 JP Court in District One in Grenada County, Mississippi?

11 A I don't know whether they reduced that or not.  
12 That was just my hunting rifle. I was going hunting the next  
13 day. I mean my shotgun.

14 Q Do you admit or deny you were found guilty of  
15 carrying a concealed weapon and paid a fine of \$58.00 for  
16 carrying a concealed weapon on April 4, 1977 before Douglas  
17 James' Court?

18 A I was thinking he withdrew that, but they had me  
19 charged with that. I was thinking they withdrew it.

20 Q Do you admit or deny it?

21 A They had me charged, but I was thinking that they  
22 withdrew that because I was on a hunting trip.

23 BY MR. GIBSON:

24 I think his answer is, Counsel, he doesn't know.

25 BY THE WITNESS:

1 I don't know to tell you the truth. I didn't go  
2 to Court; my lawyer did.

3 BY MR. CRULL: (continuing)

4 Q All right. I'll ask you now have you been convicted,  
5 pled guilty or forfeited a bond to any other crime, and this  
6 includes traffic violations involving alcohol, other than  
7 the ones you have told me?

8 A No, sir. Not that I know of that I can remember.

9 Q Did Lonnie wreck the car that night?

10 A No, sir.

11 BY MR. CRULL:

12 I have got no further questions.

13 CROSS EXAMINATION

14 BY MR. GIBSON:

15 Q Herbert, how long had it been since you had had  
16 anything to drink prior to the time you heard that tapping  
17 on your windshield out at Elceros Restaurant?

18 A It had been 3 or 4 hours. At least 3 or 4 hours.

19 Q Now, I believe you were present at the hearing on  
20 this case in city court when Officer Johnson testified?

21 A Yes, sir.

22 Q Do you recall whether or not Officer Johnson  
23 testified that he was the one that came and got you out of  
24 the car?

25 A No, sir. I don't recall that.

1 Q Who was it in fact that came over and tapped on the  
2 window and got you out of the car?

3 A Mr. Marlow.

4 Q Mr. McNeer, where was Mr. Blaylock's car at the  
5 time that this tapping on your windshield occurred?

6 A It was setting right in front of Elceros parked in  
7 the parking lot.

8 Q Is that a public thoroughfare or public road?

9 A Yes, sir.

10 Q It's a public road?

11 A A public parking lot.

12 Q Is it private property or public property?

13 A It's private property.

14 Q And Mr. Blaylock's car was private property?

15 A Yes, sir.

16 Q And you were in Mr. Blaylock's car?

17 A Yes, sir.

18 Q Were you creating any disturbance in Mr. Blaylock's  
19 car?

20 A No, sir.

21 Q As a matter of fact, you were asleep?

22 A Yes, sir.

23 Q The car was locked?

24 A Yes, sir.

25 Q Were you making any threatening gestures or obscene

1 gestures or cussing anybody or doing anything like that?

2 A No, sir.

3 Q Were you staggering or doing anything like that?

4 A No, sir.

5 Q And it had been 3 to 4 hours since you had had  
6 anything alcoholic to drink?

7 A Yes, sir.

8 Q What did you do when you heard the tapping on the  
9 window?

10 A I woke up and saw someone standing beside the car.  
11 I reached over and turned the key on to let the power  
12 window down. You have to turn the switch on to let the  
13 window down.

14 Q Which seat were you sitting in? The passenger  
15 side or the driver's side?

16 A The passenger side.

17 And I had to reach across to let the window down.  
18 And I let the window down and didn't get it down but about  
19 halfway and Mr. Marlow said, Tootie, get out of the car.

20 Q And you got out of the car?

21 A Yes, sir.

22 Q And the car was parked in front of Elceros?

23 A Yes, sir.

24 Q Was your view obstructed in anyway when you got  
25 out of the car? I mean was something blocking your viewpoint



1 of Elceros or the parking lot of what was going on?

2 A No.

3 Q What did you see when you got out of the car?

4 A Well, I just saw some people standing around when  
5 I got out. Of course, Marlow marched me straight to the  
6 car and opened the door and put me in the police car.

7 Q Did you recognize any of the people standing around  
8 outside?

9 A I saw L. C. I remember L. C.

10 Q When you say L. C., what is his full name?

11 A L. C. Blaylock.

12 Q Did you see Lonnie Blaylock?

13 A At the time I got out of the car, no, sir.

14 Q Did you see Officer John M. Johnson?

15 A No, sir.

16 Q Do you know where they were at that time?

17 A Well, after I got in the car, I saw where they  
18 were. They were on the parking lot there.

19 Q All right. There has been a lot of questioning  
20 about whether or not you saw anything that happened in front  
21 of the police car. Was there anything in that police car  
22 that obstructed your view of anything that might have  
23 happened in front of the police car?

24 A Yes, sir. You've got that cage-like thing. You  
25 can't see too good through the front of the car.

1 Q You say you can't see too good. Does it completely  
2 obstruct your vision?

3 A Just about, yes, sir.

4 Q Did you see Lonnie Blaylock at anytime resist  
5 Officer Johnson?

6 A No, sir.

7 Q Did you see Lonnie Blaylock at anytime resist  
8 Officer Marlow?

9 A No, sir.

10 Q Did you ever see Officer Johnson with his foot on  
11 Lonnie Blaylock?

12 A Yes, sir.

13 Q Would you describe Lonnie Blaylock's condition  
14 when he got in the car, or when he was finally put in the  
15 car?

16 A He was just about beat to a pulp, his face.

17 Q Did Lonnie Blaylock get in the police car of his  
18 own accord?

19 A Yes, sir. I would say they opened the door . . .

20 Q And he got in?

21 A Yes, sir.

22 Q The first time you saw Lonnie Blaylock he was on  
23 the ground?

24 A Yes, sir.

25 Q What kind of ground is that there: gravel, concrete,

1 or grass or what?

2 A Concrete parking lot.

3 Q And in what position was Lonnie Blaylock in?

4 A He was laying on his back.

5 Q What position was Officer Johnson in?

6 A He was over him; standing over him.

7 Q And I believe you said he was beating on him?

8 A Yes, sir.

9 Q Was he using both hands? Do you recall?

10 A I don't recall. It seems like he had one hand on  
11 his shirt like this. At one time when I saw him, it looked  
12 like he was dragging him.

13 Q Approximately how far from the car was Lonnie  
14 Blaylock and Officer Johnson at that time just to the best of  
15 your recollection and estimate?

16 A He was far enough that I'm looking across and can  
17 see. Got plenty of view to see the whole thing there. It's  
18 30 or 40 feet. I don't know. I'm just guessing.

19 Q I understand. Do you know where Officer Marlow  
20 was at that time? Could you see him?

21 A Well, he put me in the car and which way he went--  
22 He did come on around. He was with Johnson when Lonnie got  
23 in the car. They were both there with him.

24 Q By both you mean Officer Johnson and Officer Marlow?

25 A Yes, sir.

1 Q Did you ever see Officer Marlow hit Mr. Blaylock?

2 A No, sir.

3 Q Did you see him put his hands on Mr. Blaylock?

4 A When they were putting him in the car, yes, sir.

5 Q What did he do when they were putting him in the  
6 car? I'm talking about Officer Marlow. What did you see?

7 A Well, he had Lonnie just more or less coupled in  
8 his arms.

9 Q Holding him up?

10 A Holding him up like this just in his arms.

11 Q While he was holding him up like this, did you see  
12 Officer Johnson hit him?

13 A Yes, sir.

14 Q Did you have occasion to examine this scene the  
15 next day? Did you go out there and look where this  
16 happened the following day?

17 A Yes, sir.

18 Q Were there any signs of anything having occurred  
19 here?

20 A What do you mean?

21 Q Did you see any blood stains?

22 A Yes, sir.

23 Q Where were the blood stains?

24 A On the concrete.

25 Q Was Lonnie Blaylock bleeding that night?

1 A Yes, sir.

2 Q Where was he bleeding from?

3 A Well, you couldn't tell it was so bad, but it was  
4 all over his face. It looked like over one eye maybe. I  
5 mean his face was just a bloody mess.

6 Q Now, Lonnie had had a good bit to drink.

7 A Yes, sir.

8 Q And you've been with Lonnie when he's drinking  
9 before?

10 A Yes, sir.

11 Q And you know there are mean drunks and there are  
12 happy drunks. Is Lonnie a mean drunk?

13 A No, sir.

14 Q Does he get antagonistic towards people and pick  
15 fights like that when he's drinking?

16 A No, sir.

17 Q How long have you known Officer John M. Johnson?

18 A Since about '64 when I moved back to Winona.

19 Q Do you know how long Officer Johnson had known Mr.  
20 Blaylock of your own knowledge?

21 A Probably all their lives I would say.

22 Q Was Mr. Blaylock gainfully employed at that time?

23 A No, sir.

24 Q On October 9, 1976?

25 A No, sir.

1 Q Do you know why not?

2 A Yes, sir. He's a hundred percent disabled.

3 Q Do you know whether or not this was pretty common  
4 knowledge in that area, in that community?

5 A Everybody knows it.

6 Q Everybody knew it?

7 A Yes, sir.

8 Q After y'all left Elceros with you and Mr. Blaylock  
9 in the backseat and Officer Johnson and Officer Marlow, I  
10 assume, in the frontseat, where did you go?

11 A Went to the hospital.

12 Q Was that the arrangement with the 2 officers on the  
13 frontseat and the 2 captives in the backseat? You and Lonnie  
14 were in the backseat and the 2 police officers were in the  
15 frontseat?

16 A Yes, sir.

17 Q And where did y'all go?

18 A To the hospital..

19 Q Did you go directly to the hospital?

20 A Yes, sir.

21 Q You didn't go to jail first?

22 A No, sir.

23 Q And what happened at the hospital?

24 A Well, they took Lonnie out and I didn't know what  
25 happened other than they took him out and took him in.

1 Q Did Lonnie come back out while you were there?

2 A No, sir. Not as I can remember.

3 Q Well, who took you to jail?

4 A Mr. Marlow. I believe that's right from the  
5 hospital to the jail.

6 Q Who remained with Mr. Blaylock?

7 A Mr. Johnson.

8 Q And how long were you at the jail before Mr. Blay-  
9 lock got there?

10 A It seemed like a long time. I don't know. I would  
11 say an hour or maybe longer.

12 Q Had his wounds been treated when he got to the  
13 hospital? I mean when he got to the jail?

14 A Yes, sir. They cleaned him up.

15 Q Were there any sutures or any other treatment that  
16 you could observe with your eyes that they had done to him at  
17 that time?

18 A No, sir. Other than they just cleaned his face up.

19 Q Did you ever hear Lonnie Blaylock use any curse  
20 words that night while you were at Elceros?

21 A No, sir. I didn't hear any.

22 Q After the beating commenced, did you hear him use  
23 any curse words?

24 A No, sir.

25 Q Did you see him offer any one iota of resistance

1       whatsoever to those 2 police officers?

2           A       No, sir.

3       BY MR. GIBSON:

4                   That's all the questions I have.

5       REDIRECT EXAMINATION

6       BY MR. CRULL:

7           Q       Mr. McNeer, the attorney for Mr. Blaylock has  
8       characterized Mr. Blaylock as a happy drunk or a mean drunk  
9       so I gather that Mr. Gibson is saying that Mr. Blaylock was  
10      drunk. In your opinion, was he drunk that night when he went  
11      in Elceros?

12          A       Like I say, I was asleep there for probably 3 or  
13      4 hours and I don't know how much he drank during that period  
14      or what kind of shape he was in.

15          Q       When he went in the Old Rebel, at that point was he  
16      tight or was he drunk at that point?

17          A       He wasn't drunk. I wouldn't say he was drunk. He  
18      was high.

19          Q       He was high. And about how long was it to your  
20      best estimate from the time you say he was high and went in  
21      the Old Rebel until you woke up and saw him?

22          A       That was 3 or 4 hours like I say there.

23          Q       And you don't have any idea about how many drinks  
24      he had had during that period of time?

25          A       No, sir.



1 Q Do you think if he had had several more drinks  
2 from the time he had gone in the Old Rebel knowing what you  
3 know about him that he would have been drunk?

4 BY MR. GIBSON:

5 Objection.

6 BY THE WITNESS:

7 I don't know.

8 BY MR. CRULL: (continuing)

9 Q I want to get this straight. You say the first  
10 time you saw Mr. Blaylock now in reference to the car you say  
11 you looked out the back left door looking out sideways. Is  
12 that right?

13 A Yes, sir.

14 Q You were looing out straight sideways. And exactly  
15 in relationship to that back left door, where was Mr. Blaylock?  
16 You say he was lying down?

17 A He was on the concrete.

18 Q Where was he on the concrete? How far from that  
19 back left door?

20 A Like I said a while ago I would say 30 or 40 feet.  
21 Far enough from the car that I had a good view of him.

22 Q Was it to the back or to the front or just straight  
23 sideways?

24 A Well, I don't remember how the police car was. It  
25 seems like the police car was setting in there like this. It

1 wasn't setting straight.

2 Q But all you had to do was look straight sideways?

3 A I could, yes, sir. I could see what was happening  
4 because I tried to get them to let me out of the car.

5 Q And when you saw Lonnie, what was his situation and  
6 what was Mr. Johnson doing?

7 A Like I say, he had him by the collar as well as I  
8 can remember and he was hitting him with his other fist. And  
9 it looked like he was trying to drag him.

10 Q And of course, you didn't see anything happen in  
11 front of the car?

12 A No, sir.

13 Q Did you ever see Mr. Johnson kick Mr. Blaylock?

14 A I saw him put his foot in his chest.

15 Q How long after you first saw Lonnie Blaylock was it  
16 that you saw the foot in his chest?

17 A It was pretty shortly. I mean he was dragging him  
18 and his foot went on him.

19 Q Are you telling the jury that Mr. Blaylock was on  
20 the ground and Mr. Johnson was striking him while he was on  
21 the ground?

22 A Yes, sir.

23 Q With his fist?

24 A Yes, sir.

25 Q And you are the same person who has testified that

1 he has had approximately 8 drinks and has been asleep in the  
2 car for 3 or 4 hours before that?

3 A Yes, sir.

4 Q And you're telling the jury on this deposition  
5 that in your opinion you weren't drunk?

6 A No, sir. I wasn't drunk.

7 Q You were high?

8 A I wasn't even high then.

9 Q Oh, you had slept off your drinks?

10 A Yes, sir. I was as sober as a judge.

11 Q You had had approximately 8 drinks and you had  
12 slept them off?

13 A Yes, sir.

14 Q In other words, what you're saying is you had been  
15 high before, but you had slept it off?

16 BY MR. GIBSON:

17 Objection. I believe that's what Counsel said. I  
18 don't believe that's what Mr. McNeer said.

19 BY MR. CRULL: (continuing)

20 Q I want to get it straight for the record. You said  
21 you had approximately 8 drinks?

22 A Oh, I felt them, but I wasn't what you call high  
23 high.

24 Q But you were high. You weren't normal. Let's lay  
25 the cards on the table, Herbert. You had approximately 8

1 drinks and you were feeling your drinks; is that right?

2 A I wasn't near about drunk. I wasn't even what I  
3 would call high. I was tired from the night before. I had  
4 been out all night the night before.

5 Q You were tired and you were sleepy and you were  
6 feeling your drinks. Isn't that a fair statement to make?

7 A Well, I felt them, but I wasn't drunk and I wasn't  
8 high.

9 Q How many drinks does it take to get you high?

10 A Sometimes it takes a bunch.

11 Q Why is that? Do you drink a lot, Herbert?

12 A At that time, I was drinking a lot; yes, sir.

13 Q What about Lonnie Blaylock? Did he drink a lot  
14 during that period of time?

15 A I wouldn't say he was a heavy drinker. Usually  
16 just beer is what Lonnie drank.

17 Q How often would he drink?

18 A I don't know. He would go out every evening and  
19 maybe have a couple of beers or something like that.

20 Q And y'all would get together a lot of times too  
21 and drink?

22 A We would; yes, sir.

23 BY MR. CRULL:

24 I have got no further questions.

25 (The deposition of Mr. McNeer was completed at  
11:05 A.M. of the same morning.)

CERTIFICATE OF COURT REPORTER

I, Sarah M. Rice, Court Reporter and Notary Public in and for the County of Leflore, State of Mississippi, hereby certify that the foregoing 43 pages constitute a true and correct transcript of the testimony of Herbert McNeer as taken by me on the date and at the time and place heretofore stated, and later reduced to typewritten form to the best of my skill and ability.

I further certify that I placed the witness under oath to truthfully answer all questions propounded to him in his deposition, under the authority vested in me by the State of Mississippi.

I further certify that I am not in the employ of nor related to any Counsel or Party in this matter, and have no interest whatsoever in the out come of this proceeding.

WITNESS MY SIGNATURE AND SEAL, this the 22n day of August, 1978.



SARAH M. RICE

(SEAL)

My Commission Expires:

April 22, 1979

SARAH M. RICE  
COURT REPORTER

109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
3 WESTERN DIVISION

4 LONNIE L. BLAYLOCK

PLAINTIFF

5 VS.

NO. WC 77-21-S

6 JOHN M. JOHNSON, Individually, and  
7 as an Officer of the Winona,  
Mississippi Police Department; JOHN  
8 MARLOW, Individually, and as an  
Officer of the Winona, Mississippi  
9 Police Department; GARY MOORE,  
Individually, and as Mayor of the  
10 City of Winona, Mississippi, M. E.  
DAVES, BILLY LANCASTER, HARRY LEE  
11 ROBINSON, EDWARD A. HAMMOND, JR.,  
and SPENCE TOWNSEND, Individually  
12 and as Board of Aldermen of the  
City of Winona, Mississippi

DEFENDANTS

FILED

AUG 21 1978

NORTH  
MISSISSIPPI  
CLERK

14 DEPOSITION OF JOHN JOHNSON

15 APPEARANCES:

16 HONORABLE BILLY R. GIBSON

Gibson and Newlin

17 P. O. Box 355

18 Bruce, MS. 38915

(REPRESENTING PLAINTIFF)

19 HONORABLE LUTHER P. CRULL, JR.

Liston, Crull & Gibson

20 P. O. Box 645

21 Winona, MS. 38967

(REPRESENTING DEFENDANTS)

22 ALSO PRESENT:

23 Members of the Board of Aldermen of the Town  
24 of Winona and Mayor Gary Moore

24 Taken at the instance of the Plaintiff  
25 in the law offices of Liston, Crull &  
Gibson, 128 North Quitman, Winona, MS.  
on August 21, 1978, at 11:10 A.M.

SARAH M. RICE  
COURT REPORTER

109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

S T I P U L A T I O N

It is stipulated by and between all Parties that the deposition of John Johnson is being taken pursuant to the Federal Rules of Civil Procedure; that all formalities, including notice and the signature of the deponent, are hereby waived, but that all objections, except those as to the form of the question, are reserved until such time as the deposition, or any part thereof, is sought to be introduced into evidence.

JOHN JOHNSON,

after having been first duly sworn, was examined and testified under oath as follows, to-wit:

CROSS EXAMINATION

BY MR. GIBSON:

Q Would you state your name.

A John Johnson.

Q Mr. Johnson, where do you live?

A Here in Winona about 2 miles out of town.

Q What's your present mailing address?

A Route 2, Winona.

Q How long have you lived there, Mr. Johnson?

A Since January of this year.

Q Where did you live before that?

A Morgan City, Louisiana.

Q How long were you down at Morgan City?

SARAH M. RICE  
COURT REPORTER

109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1 A For 9 months, I think it was.

2 Q How old are you?

3 A 28.

4 Q Are you presently married?

5 A I am.

6 Q You and your wife living together?

7 A We are.

8 Q Do you have any children?

9 A No.

10 Q Have you ever been married before?

11 A Yes, I have.

12 Q How did that marriage end?

13 A Well, it ended with a divorce.

14 Q Did you have any children by that marriage?

15 A I did not.

16 Q Is that the only previous marriage?

17 A Well, I was married twice to my first wife.

18 Q So you've had 3 marriages all together?

19 A Yes, sir.

20 Q How old did you say you were?

21 A 28.

22 Q Where were you educated, Mr. Johnson?

23 A After the 6th grade, I was in Winona public schools  
24 and I graduated in '68 from high school.

25 Q Did you have any post graduate education? Did you



1 go to college?

2 A I went to Hinds Jr. College at night. I went full  
3 time the first semester and then I went at night the second  
4 semester.

5 Q And did you complete that year?

6 A No, I didn't.

7 Q Did you get any college credits?

8 A I did.

9 Q How many college credits did you get?

10 A I think it was 18.

11 Q 18 hours?

12 A Well, I got 18 counting-- I got 6 hours from  
13 attending the state law enforcement academy.

14 Q Was that at Hinds Jr. College?

15 A It was transferred to Hinds Jr. College.

16 Q How long did you attend the state law enforcement  
17 or police officer's academy?

18 A I think it was 5 weeks.

19 Q Did you complete that course?

20 A I did.

21 Q What was your major course of study while you were  
22 at Hinds Jr. College?

23 A It was general courses.

24 Q What was your first gainful occupation that you had  
25 after you got out of Hinds Jr. College?

1           A     Well, after that, I moved back to Winona, Mississippi  
2 and I worked for my daddy in the service station out here.

3           Q     When did you start that?

4           A     I think it was in '69.

5           Q     Were you seeking employment with the police depart-  
6 ment at that time?

7           A     I did after working there awhile, yes.

8           Q     How long did you work there before you sought  
9 employment with the police department?

10          A     I think it was in '72 that I went to work for the  
11 police department.

12          Q     Did you have any courses in law enforcement between  
13 1969 and 1972?

14          A     No.

15          Q     Did you work in law enforcement during those years?

16          A     No.

17          Q     You said you went to night school at Hinds Jr.  
18 College. What kind of employment did you have while you were  
19 going to Hinds Jr. College?

20          A     I worked at Addkison Hardware there on Amite Street  
21 there in Jackson.

22          Q     That was not in law enforcement?

23          A     No. It was not.

24          Q     In 1972 you sought employment with the police  
25 department. Would you tell us which one it was, please?

1 A The Winona Police Department, Winona, Mississippi.

2 Q And were you employed?

3 A Yes, sir.

4 Q And how long did you work?

5 A It was about a year. Nine months to a year.

6 Q Did you terminate your employment yourself or were  
7 you terminated?

8 A I terminated myself.

9 Q For what reason?

10 A I had a political disagreement with the Mayor, I  
11 guess, at that time.

12 Q You quit?

13 A I did.

14 Q And what was the nature of that disagreement?

15 A It was a disagreement over I had asked a man to  
16 move out of a no parking space and the Mayor told me that I  
17 should come to him before I should ask anybody to do anything  
18 like that.

19 Q And you disagreed with the Mayor on this?

20 A My thoughts were in disagreement with that, yes.

21 Q You just wasn't going to put up with anything like  
22 that?

23 BY MR. CRULL:

24 For the record, I would like to point out that  
25 we are not talking about the Mayor Gary Moore who is the

1 defendant in this case, but we're talking about the former  
2 Mayor Fred Watts.

3 BY MR. GIBSON: (continuing)

4 All right, sir. I was going to ask him that, but  
5 that's okay.

6 Q Go ahead and answer the question.

7 A I couldn't perform-- I didn't feel like a sworn  
8 officer was effective, he couldn't do his job if he couldn't  
9 even ask a man to move out of a no parking zone without first  
10 consulting the Mayor.

11 Q All right, sir. You also felt like you shouldn't  
12 take direction from the elected Mayor of the City of Winona?

13 A I didn't feel like I should take that type direc-  
14 tion.

15 Q So you quit.

16 A I did.

17 Q And what was that mayor's name?

18 A Fred Watts.

19 Q What was your employment after that?

20 A I went back to work for my daddy in his service  
21 station.

22 Q And how long did you work at the service station  
23 that time?

24 A I believe it was about a year.

25 Q During this period of time, were you seeking

1 employment in law enforcement?

2 A Not until I got ready to leave there about a year  
3 later.

4 Q And where did you seek employment at that time?

5 A The Grenada Police Department, Grenada, Mississippi.

6 Q Was Mayor Watts still mayor of the City of Winona?

7 A I think so.

8 Q Is that the reason for you seeking employment in  
9 Grenada?

10 A It was.

11 Q Were you employed by Grenada?

12 A I was.

13 Q Did you file any application with any other law  
14 enforcement agency?

15 A No, I don't think so. I don't remember filing any  
16 other application.

17 Q You didn't file one with the highway patrol?

18 A Correction. I have previously filed an application  
19 with the Jackson Police Department on 2 occasions and was  
20 hired both times but I didn't take the positions because the  
21 first time had already taken employment with the Winona  
22 Police Department and the second time I had already taken  
23 employment with the Grenada Police Department.

24 Q Have you ever made application with the Mississippi  
25 Highway Patrol?

1 A I have not.

2 Q How long did you work for the City of Winona?

3 A Excuse me. Are you talking about the first time?

4 Q I'm sorry. The City of Grenada.

5 A Two years, approximately two years.

6 Q Did you live in Grenada while you were working  
7 there?

8 A I did.

9 Q Where did you live?

10 A On Franklin Street and from there I moved to the  
11 Monroe Apartments on Monroe Street there in Grenada.

12 Q Who was your immediate supervisor?

13 A C. H. Lovorn.

14 Q And what was his position?

15 A He was the Chief of Police.

16 Q Did you quit at Grenada or were you terminated?

17 A I took a leave-- I gave ample notice and came  
18 back to the Winona Police Department.

19 Q Did you quit?

20 A I guess I quit, yes.

21 Q Do you have any doubt about it?

22 A Well, I went and talked with the chief of police  
23 and told him that I was wanting to leave and gave ample  
24 notice and he just called it a transfer. Of course, I don't  
25 guess that was possible since the two departments were not

1 actually affiliated with each other.

2 Q Were you having any problems there with the Grenada  
3 Police Department?

4 A None.

5 Q Had you been involved in any litigation over there?

6 A Any what?

7 Q Lawsuits.

8 A No.

9 Q Had you been charged with exceeding the limits of  
10 your duty?

11 A Official charges you talking about?

12 Q Official or unofficial.

13 A There were complaints made at times, I'm sure.

14 Q Do you have any specific knowledge of those com-  
15 plaints?

16 A Yes.

17 Q Would you tell us about the first one?

18 A There was a young man. He was approximately 18 or  
19 17 years old. An Alexander. His last name was Alexander,  
20 I believe. While one night on routine patrol myself and  
21 Freddie Tillman who was the captain up there on that shift  
22 were south of Grenada on Carrollton Road and we saw a motor-  
23 cycle and a car dragging south on Carrollton Road. And we  
24 proceeded after them in pursuit and we passed the car and  
25 the motorcycle sped with his lights off up behind a church.

1           And then I got out of the car to approach the  
2 violator's car and at the time, the motorcycle came down the  
3 hill and turned his lights back on and I was under a well lit  
4 street light and apparently it looked like he was going to  
5 run over me. He was speeding, you know, and just kept  
6 speeding up toward me. At that time, I pulled my pistol and  
7 held it up over my head and held up my left hand and motioned,  
8 you know, trying to signal for him to stop. And he actually  
9 slid up to me and he did stop. I never pointed my weapon at  
10 him. And later he complained to the chief of police that I  
11 shouldn't have pulled my pistol.

12           Q     Was there an official complaint filed on that?

13           A     I'm not sure what would be official or what would  
14 not be. I was called in and the chief of police talked to me  
15 and this young man and the matter was resolved.

16           Q     Do you recall when that was?

17           A     No, I don't.

18           Q     How long had you been working at the Grenada Police  
19 Department approximately when that occurred?

20           A     I can't say. I don't remember.

21           Q     What was the second complaint?

22           A     I don't remember any more official complaints.

23           Q     All right. What was the second unofficial complaint?

24           A     I don't remember anything specifically, just  
25 routine. I mean it was just . . .



1 Q Several complaints.

2 A I don't know if there were several complaints or  
3 how many complaints there were or there wasn't. I mean I  
4 didn't take the complaints.

5 Q You don't have any objections to us looking at your  
6 record over at the Grenada Police Department, do you?

7 A I don't, no.

8 Q In fact, you would give us written permission to do  
9 that?

10 A I would have to consult my attorney before I done  
11 that.

12 Q Were any complaints pending when you left the  
13 Grenada Police Department?

14 A None that I remember now.

15 Q All right. You did have an application in with the  
16 Winona Police Department when you left the Grenada Police  
17 Department?

18 A I did.

19 Q Did you appear before the Winona Board of Aldermen  
20 in connection with your second application?

21 A No, sir.

22 Q They didn't talk to you? They didn't interview  
23 you personally or anything like that?

24 A Someone might have talked to me on the street. See  
25 I knew everybody. In a small town, you see everybody everyday.

1 Q Do you recall any of them talking to you on the  
2 street?

3 A I don't really remember.

4 Q Do you recall telling any of them about these  
5 complaints that had been filed on you in Grenada?

6 A I didn't know of any complaints that would be of  
7 any importance at all.

8 Q Did any of them ask you about any?

9 A They contacted-- Somebody with the City of Winona  
10 contacted the chief of police up there and consulted him  
11 concerning my records.

12 Q Do you know who that was?

13 A No, I don't.

14 Q When did you leave the Winona Police Department  
15 the second time?

16 A I believe it was in November of '76.

17 Q Why did you leave?

18 A Well, it seemed to me that law enforcement was just  
19 too much of a hassle.

20 Q Hassle. You had been in several hassles?

21 A I don't know. You would have to define hassle.

22 Q Well, you used the word. You had been in several  
23 hassles.

24 A I don't know if that's the right word.

25 Q Well, what did you mean when you said it was too

1 much of a hassle?

2 A Well, you know, you're constantly looked down on  
3 by the general public it seems.

4 Q Did you feel like you were constantly looked down  
5 on by the general public?

6 A No more than anybody else that stands for the  
7 system.

8 Q And you stood for the system?

9 A I think I did, yes.

10 Q What system is that?

11 A Well, I stood for enforcing the law and tried to  
12 live by it.

13 Q Were you asked to leave the Winona Police Depart-  
14 ment on this second occasion?

15 A No, I was not.

16 Q You just quit on your own?

17 A I did.

18 Q Did you have any other complaints filed-- Other  
19 than the one we're here today on, did you have any other  
20 complaints filed against you while you were with the Winona  
21 Police Department?

22 A It's possible that I did, but I don't remember  
23 anything specifically.

24 Q If you had any, you don't remember specifically?

25 A No, I don't.

1 Q Complaints are a pretty big thing for a police  
2 officer, isn't it?

3 A Not really. I mean if you do your job, you'll get  
4 complaints. People are going to complain.

5 Q Who was your immediate supervisor with the Winona  
6 Police Department?

7 A H. L. Steed.

8 Q How do you spell that?

9 A It's Herbert L. Steed, S-t-e-e-d.

10 Q Was he your supervisor with the Winona Police  
11 Department both the first time you worked for the Winona  
12 Police Department and the second time?

13 A No.

14 Q Who was your supervisor the first time?

15 A Tommy Herrod. H-e-r-r-o-d, I think.

16 Q Did you have any complaints filed, either official  
17 or unofficial, during your first tenure with the Winona  
18 Police Department?

19 A I don't remember any.

20 Q You don't have any objection to us looking at your  
21 personnel file?

22 A Not if my attorney doesn't.

23 Q For either occasion if your attorney doesn't object,  
24 you don't object?

25 A Not if my attorney doesn't object.

1 Q Mr. Johnson, what is your present employment?

2 A I'm working for Delta Electric Power Association.

3 Q What did you do in Morgan City, Louisiana?

4 A I managed a tire store.

5 Q Who did you work for down there?

6 A Randy Ziegler.

7 Q Z-e-e-g-l-e-r?

8 A No, Z-i-e-g-l-e-r, I believe.

9 Q Did you quit down there or were you terminated?

10 A I quit.

11 Q Why did you quit?

12 A I was married in June and my wife was a very nervous

13 type person. She had had rheumatic fever when she was

14 younger and we were living down there basically by ourselves

15 and we didn't know any of the people. The people were good

16 people, but they were different, you know. And she was

17 having a little bit of a nervous problem there. And then I

18 was supposed to have gotten a fifteen hundred dollar bonus

19 at the end of the year that I didn't get because of reorganiza-

20 tion within the company. And I just decided to terminate my

21 employment there because I felt like that was an injustice

22 not to get the bonus that I was promised and plus too I felt

23 like my wife would be better satisfied and I would too.

24 I kind of like living in a small town.

25 Q What was the name of the company down there in

1 Morgan City?

2 A You talking about the store that I worked for?

3 Q Yes, sir.

4 A It was Service Tire & Supply Incorporated.

5 Q And if your attorney doesn't object, you wouldn't  
6 mind us seeing your personnel records for down there?

7 A No, sir.

8 Q Mr. Johnson, how long have you known Lonnie Blay-  
9 lock?

10 A I guess I have known of him about 16 years.

11 Q Were you just casual acquaintances or did you know  
12 him pretty well?

13 A I would say fairly casual.

14 Q Do you know what his occupation was on October 9,  
15 1976?

16 A No, I didn't.

17 Q Do you know whether or not he was employed?

18 A No, I didn't.

19 Q Did you know anything about his employment?

20 A No, I didn't know anything about his employment.

21 Q How frequently did you see him?

22 A Just occasionally. In a small town you normally  
23 see people going in and out.

24 Q Were y'all pretty good friends?

25 A Well, I didn't have anything really for him or

1 against him.

2 Q Did you know who he was when he walked in Elceros  
3 Restaurant that night?

4 A I did.

5 Q And what time was that, please, sir?

6 A I don't remember specifically. It was about 12:30  
7 or something like that.

8 Q How long had you been at Elceros yourself?

9 A About 5 or 10 minutes.

10 Q Were you with anyone or were you by yourself?

11 A I was with another police officer.

12 Q And his name?

13 A Johnny Marlow.

14 Q What shift were you pulling on that day?

15 A I don't remember the shift, but we were on duty  
16 at that time.

17 Q How long had you been on duty?

18 A I don't remember specifically.

19 Q What was the normal shift at that time?

20 A I've forgotten that. It had changed up several  
21 times.

22 Q You don't recall how long you had been on duty  
23 that day?

24 A No, I don't.

25 Q Do you recall anything else you done that day?

1 A Not specifically, no, sir.

2 Q But you do recall this occasion?

3 A I do.

4 Q Do you recall the hearing we had in Mayor's Court  
5 a week or so after that occasion?

6 A I do.

7 Q Do you recall your testimony?

8 A Sir?

9 Q Do you recall that you testified?

10 A I think I will, yes.

11 Q What was your business at Elceros that night at  
12 12:30?

13 A We had stopped to drink coffee.

14 Q Do you recall anyone else being present?

15 A I do.

16 Q Who else was present besides Officer Marlow and  
17 yourself?

18 A Inside the restaurant?

19 Q Yes, sir. Inside.

20 A Lonnie Blaylock, Roy Hathcock, Ruby Blaylock, L. C.  
21 Blaylock, Bruce Caldwell and his wife. There was another  
22 gentleman in there. I don't know his name. I know him when  
23 I see him.

24 Q Anyone else that you recall?

25 A None that I recall.



1 Q Was anyone outside that you recall?

2 A Herbert McNeer was sitting in Lonnie Blaylock's  
3 car outside.

4 Q Were Mr. McNeer and Mr. Blaylock there when you and  
5 Officer Marlow arrived?

6 A No.

7 Q They came up after you and Officer Marlow got there?

8 A Yes, sir.

9 Q They came up in front of the restaurant?

10 A That's true.

11 Q And you could see outside the restaurant?

12 A I could.

13 Q And you saw them drive up?

14 A I did.

15 Q Where were you sitting inside at the time they  
16 drove up?

17 A I was sitting at a round table on the eastside of  
18 the cafe. The position I was sitting, I was facing west.

19 Q Was anyone else sitting at the table with you?

20 A Johnny Marlow, Ruby Blaylock, Bruce Caldwell and  
21 his ex-wife.

22 Q Y'all were all sitting at the table together?

23 A Yes.

24 Q Was anyone else in there sitting at any other  
25 tables?

1           A     L. C. Blaylock and another gentleman. I don't know  
2 his name. Roy Hathcock was sitting there.

3           Q     Where was he sitting?

4           A     He was sitting on the southside looking north.

5           Q     Was he sitting at the table with you?

6           A     I think so. Yes, sir.

7           Q     Of course, the view was unobstructed? There was a  
8 large window there.

9           A     There was a large window there, but there were no  
10 lights on out on the front parking lot there.

11          Q     But everybody else there could see as well as you  
12 could?

13          A     I don't know how well everybody else could see.

14          Q     All right. That's a good answer. Did you make  
15 any particular note when Mr. Blaylock and Mr. McNeer drove  
16 up? Did anything occur to you or anything out of the  
17 ordinary?

18          A     I could tell they were drunk.

19          Q     How could you tell Mr. Blaylock was drunk.

20          A     Well, I have known Lonnie Blaylock a long time like  
21 I told you before. Approximately 16 years. And I've seen  
22 him both sober and drunk. I could tell the way he was slouched  
23 in his car. And of course, as he got out of the car, he  
24 kind of staggered and caught himself on the pickup. And he  
25 was staggering and when he came inside-- Do you want me to

1 go into . . .

2 Q Just whatever you want to go into, sir.

3 BY MR. CRULL:

4 I will advise Mr. Johnson not to answer any ques-  
5 tions unless they are solicited by Counsel.

6 BY MR. GIBSON:

7 You want to go on and just let him tell his story?

8 BY MR. CRULL:

9 I have instructed him what to do.

10 BY MR. GIBSON: (continuing)

11 Q Okay. When you saw Mr. Blaylock and Mr. McNeer  
12 get out and Mr. Blaylock start in the restaurant, what else  
13 did you observe?

14 A In what respect?

15 Q What else did you observe in reference to Mr. Blay-  
16 lock?

17 A I observed him come in and put his arms around me.

18 Q Was that in a threatening manner?

19 A I thought it was an insulting manner since I was  
20 sitting there in police uniform.

21 Q He insulted you in your uniform?

22 A I think it wasn't necessarily an insult toward me  
23 but to the general public. The people of Winona.

24 Q Was he hostile or friendly?

25 A I would just call him sloppy drunk.

1 Q Was he hostile or friendly?

2 A Friendly.

3 Q And what happened then?

4 A What do you mean? What happened then from then on?

5 Q Well, what did you do after he put his arms around  
6 you?

7 A He put his arms around several people and was, I  
8 thought, rude and out of the way. And he kept trying to bet  
9 something with me. And as he would start to try to tell me  
10 what he was trying to bet with me, he would get confused.  
11 I told him if he wanted to bet anything with me, he would  
12 have to come outside.

13 Q Did you order him outside?

14 A No more than what I just said.

15 Q Told him to come outside?

16 A No.

17 Q Come outside and place a bet with you?

18 A I said if he was going to have to bet with me, he  
19 would have to come outside.

20 Q Did he go outside?

21 A He did.

22 Q Did anyone else go outside?

23 A Not at that time.

24 Q Did Mr. Blaylock speak to anyone else in Elceros?

25 A He did.

1 Q Who else did he speak to?

2 A He spoke to Bruce Caldwell's wife and Ruby Blaylock,  
3 Johnny Marlow and possibly to some other people.

4 Q Did they seem to be insulted or offended by him?

5 A They seemed to be at the time. Yes, sir.

6 Q Have you talked to them since?

7 A No, not on specifics like that other than Roy  
8 Hathcock. I did talk to him.

9 Q And Bruce Caldwell's wife, what was her name?

10 A I don't know. I think it's Janice.

11 Q And I believe at the hearing in city court on this  
12 you said that she had a look in her eyes I believe, did you  
13 not?

14 A Well, when he came around the table and Bruce was  
15 satting there, he put his arms around her and said this is  
16 my baby or something to that effect. And she looked at me  
17 like-- Can I voice my opinion?

18 Q Yes, sir.

19 A It appeared to me that she was going to say, are  
20 you going to do anything? In my opinion, I felt like it was  
21 time somebody done something because there was her husband  
22 satting at the table with them. I would be insulted if that  
23 was my wife.

24 Q Did she tell you to do anything?

25 A She didn't tell me to do anything.

- 1 Q Did her husband tell you to do anything?
- 2 A No.
- 3 Q Did anybody in there tell you to do anything?
- 4 A No.
- 5 Q Did anybody in there ask you to do anything?
- 6 A No, not that I remember.
- 7 Q So you got up and went out with Mr. Blaylock?
- 8 A I got up and walked outside by myself.
- 9 Q Was he still inside?
- 10 A Yes, sir.
- 11 Q And did he come outside?
- 12 A Yes.
- 13 Q What happened after he got outside?
- 14 A I told him that I was going to have to place him
- 15 under arrest for public drunk.
- 16 Q What did he say?
- 17 A He said, why?
- 18 Q And what did you say?
- 19 A I told him because he had put me on the spot too
- 20 many times and that he was a public drunk and he was under
- 21 arrest for public drunk.
- 22 Q And what did you do then?
- 23 A I didn't do anything at that time before he done
- 24 something.
- 25 Q What did he do?

1           A     He drew back and hit me.

2           Q     Do you recall testifying at the hearing that I  
3 reached for the back of his arm to lead him to the car and  
4 when I did that he drew back his arm like that with a closed  
5 fist and it was my impression that he was fixing to hit me  
6 with his fist?

7           A     That's a true statement, yes, sir.

8           Q     You reached for the back of his arm first?

9           A     I did.

10          Q     Had he refused to come with you?

11          A     I hadn't placed him under arrest until that time.

12          Q     You just said that you had.

13          A     I told him he was under arrest and at the same  
14 time I reached for the back of his arm.

15          Q     Did you wait to see if he was going to refuse to  
16 go with you?

17          A     No, I didn't.

18          Q     Just reached to get him. Is that correct police  
19 procedure?

20          A     I don't know, but in a small town in a community  
21 where you know everybody I'm sure the procedures are not  
22 what they would be in a larger town.

23          Q     Procedures are different in a small town; is that  
24 right?

25          A     Maybe they shouldn't be, but I think they are, yes.

1 Q I agree with you that they shouldn't be.

2 Of course, you had known Lonnie a pretty good while  
3 and were pretty good friends with him. You didn't expect any  
4 trouble out of him did, you?

5 A No, I didn't.

6 Q That's right. All right, sir, what happened then?

7 A Well, he drew back to hit me and I hit him.

8 Q Now, Mr. Johnson, did he draw back to hit you?

9 A I just stated that he did.

10 Q Now you stated at the hearing that it was your  
11 impression that he was drawing back to hit you.

12 A He put me in fear of bodily harm for myself, yes.

13 Q All right. You've got that down pretty good. And  
14 what did you do then?

15 A Well, he fell to the ground on the walk outside the  
16 restaurant.

17 Q How did he fall?

18 A Well, he bumped the glass on the restaurant and  
19 fell to the ground.

20 Q How did he bump the glass on the restaurant?

21 A I think his shoulder kind of bumped it.

22 Q How did his shoulder bump it?

23 A Well, he kind of fell into it.

24 Q Didn't you knock him to the ground, Officer Johnson?

25 A I hit him and he fell back, yes.



1 Q All right.

2 A Now as far as me knocking him to the ground, I  
3 wouldn't know whether that was--

4 Q Well, he wouldn't have hit the ground if you hadn't  
5 of hit him first, would he?

6 A Probably not, no, sir.

7 Q You hit him a pretty good lick?

8 A Not too much.

9 Q What did you hit him with?

10 A My fist.

11 Q What did you do then?

12 A I placed my left foot on top of his chest while  
13 he was laying on the ground and told him, I said, Lonnie,  
14 get up from there and act like you've got some sense. And  
15 he answered, okay.

16 Q Where were y'all when this transpired?

17 A About one-third of the way down in front of the  
18 restaurant from the eastside of the restaurant on the front  
19 in front of his car.

20 Q In front of Mr. Blaylock's car?

21 A Lonnie Blaylock's, yes.

22 Q And what kind of car was that?

23 A Looked like a silver T-bird.

24 Q Where was Mr. McNeer at this time?

25 A He was sitting in that car.

1 Q In the T-bird?

2 A Yes, sir.

3 Q Do you recall which seat he was sitting in?

4 A In the passenger seat.

5 Q Where were the occupants of the restaurant? The  
6 people who had been in the restaurant?

7 A Most of them were sitting at the table like I've  
8 already testified. Some of them started to get up about  
9 that time.

10 Q Didn't any of them follow Mr. Blaylock out or any-  
11 thing like that?

12 A Not when he came out, no.

13 Q And where was Mr. Marlow at this time?

14 A He was looking at Tootie McNeer.

15 Q Where was he physically standing or whatever?

16 A Of course, he was moving. He was walking and he  
17 was outside the car and of course, looking into Lonnie  
18 Blaylock's car.

19 Q Did he follow Mr. Blaylock out?

20 A Probably did. I'm not sure whether he came out  
21 before or after Lonnie did.

22 Q And what did he do from your observations what you  
23 saw after he got outside?

24 A Who is that?

25 Q Mr. Marlow.

1           A     He placed Tootie McNeer under arrest for public  
2 drunk.

3           Q     And did you see how he accomplished that? What  
4 did he do?

5           A     Tootie was in the car like he was handling the keys  
6 to the car and he asked him to step out of the car and he  
7 stepped out of the car.

8           Q     Did Mr. McNeer offer any resistance?

9           A     None that I saw.

10          Q     And you were still with Mr. Blaylock over in front  
11 of Mr. Blaylock's car?

12          A     Before he got out?

13          Q     Yes, sir. Mr. Blaylock was still on the ground and  
14 you had your foot on his chest.

15          A     Yes, sir.

16          Q     What kind of shoe were you wearing?

17          A     Probably some black ankle-high--

18          Q     Boots?

19          A     I guess you would call it a boot, yes.

20          Q     Were you armed?

21          A     Yes.

22          Q     What were you armed with?

23          A     A 38 caliber pistol.

24          Q     You were carrying that around your waist or  
25 stomach on a belt?

1 A I was carrying it on my--

2 Q Holster.

3 A Holster, yes, sir.

4 Q Did you have any other arms or weapons?

5 A No, I don't believe.

6 Q Did you have a billyclub or a blackjack or a flap-  
7 jack or whatever those leather things are?

8 A No, I didn't.

9 Q Did you have handcuffs on your belt?

10 A Yes, sir, I did.

11 Q All right. Now I believe Mr. Blaylock was on the  
12 ground with your foot on his chest and you were standing over  
13 him?

14 A That's true.

15 Q What did you do after that?

16 A Like I said I asked him to get up from there and  
17 act like he had some sense and he said okay. At that time,  
18 Johnny Marlow and myself both reached down and helped him up  
19 and led him to the car, the police car.

20 Q And did he offer any resistance on the way to the  
21 car?

22 A No, he didn't.

23 Q None whatsoever?

24 A None.

25 Q Did you hit him any more?

1 A Yes.

2 Q If he didn't offer any resistance, why did you hit  
3 him?

4 A This was after we got to the car that he offered  
5 more resistance.

6 Q What kind of resistance did he offer?

7 A I tried to push him into the car, the patrol car,  
8 to lead him in there and he started pushing back. At this  
9 time L. C. Blaylock and maybe one or two more out of the  
10 restaurant came out to the front of the patrol car and were  
11 talking to Lonnie and he was trying to talk to them and I  
12 tried to forcibly push him into the car and explain to him  
13 that he was under arrest. And I was unable to get him in the  
14 car at that time.

15 Q And you were still hitting him?

16 A I hadn't hit him at that time, no.

17 Q You did hit him some more?

18 A Later, yes.

19 Q Was that necessary?

20 A Yes, it was.

21 Q Did you pull his hair?

22 A No, I didn't pull his hair.

23 Q You don't recall testifying at the hearing, I  
24 didn't realize it, but I did pull his hair?

25 A I don't remember saying that. Possibly I did, but

1 I don't remember it.

2 Q You don't deny saying that?

3 A I'm not going to deny it, but I don't think that I  
4 pulled his hair. All I was doing was trying to push him  
5 into the car and he was pushing back at me.

6 Q You recall testifying, and said out of his own  
7 mouth okay and then at that time Johnny Marlow came over and  
8 assisted me and we picked him up and led him to the patrol  
9 car and the right rear door and a few minutes later he was  
10 in the car? Johnny was putting him in the car. When we  
11 tried to get Lonnie in the car, he wouldn't go. We tried  
12 pushing him in the car, twisting his arm and I even pulled  
13 his hair one time.

14 A I don't remember that. Some of that is false  
15 statements. I don't know how it was--

16 Q You say this is a false statement?

17 A Yes.

18 Q And if you made it, it was still false?

19 A Yes, it is.

20 Q You didn't pull his hair?

21 A Like I said, I don't remember pulling his hair.

22 Q Do you remember L. C. saying why did John hit me?

23 A Remember what now?

24 Q I mean do you remember Lonnie saying why did John  
25 hit me?

1           A     Yes.

2           Q     Mr. McNeer, of course, was already in the police  
3 car when all this happened.

4           A     That's correct.

5           Q     And y'all were struggling and pushing and hitting  
6 Lonnie to get him in the car?

7           A     We were not struggling and pushing and hitting him.  
8 I was struggling and pushing trying to forcibly push him into  
9 the car.

10          Q     When did you hit him again?

11          A     He pushed his way back up out of the car facing  
12 me. He grasped my police jacket on my leftside and pulled  
13 it across my throat and was pushing up on it and drew back  
14 his right arm like he was going to hit me and I hit him in  
15 the mouth.

16          Q     He never did hit you.

17          A     He never did.

18          Q     But he kept on drawing his arm back.

19          A     He did on 2, 3 other occasions, yes.

20          Q     Do you recall saying, you're fixing to get in the  
21 car and he had his right arm up on the window on the back of  
22 the patrol car of the right rear door and I took his right  
23 arm and tried twisting it behind him and pushing him up in  
24 the car?

25          A     I believe that is a true statement, yes.

1 Q And at that time, Lonnie turned around with his  
2 left hand and caught my jacket or Johnny Marlow's Jacket. I  
3 had put it on and he caught it right in here and pulled it  
4 across my neck. He didn't pull it across at an angle up  
5 close to my neck, but had it on the side. Do you remember  
6 that?

7 A At first the coat wasn't up against my neck.

8 Q Is that when you hit him?

9 A When he pulled it up across my neck and it was in  
10 a choking manner and drew back like he was going to hit me,  
11 I hit him.

12 Q And he pulled it with which hand?

13 A His left hand.

14 Q And which one did he draw back?

15 A His right hand.

16 Q And Mr. McNeer could see all this?

17 A I doubt it.

18 Q Well, y'all were right at the door of the car,  
19 weren't you?

20 BY MR. CRULL:

21 I object. I want to instruct the witness to only  
22 testify as to his personal knowledge and not to speculate  
23 what anybody could see or heard or did.

24 BY MR. GIBSON: (continuing)

25 Q Weren't you right at the door of the police car?



1           A     Lonnie McNeer is a tall individual. When he stands  
2 up his trunk region and all would be up above the door.

3 BY MR. GIBSON:

4                 Would you ask him to answer my question, Counsel.

5 BY MR. CRULL:

6                 I'm instructing the witness to only testify as to  
7 what he has personal knowledge to and not to speculate as to  
8 what anybody else could have done or could have seen.

9 BY MR. GIBSON: (continuing)

10           Q     I'll ask you one more time and then I'll ask for  
11 the statutory penalty. Were you at the door of the police  
12 car when this happened?

13           A     I was.

14           Q     And was Mr. Blaylock in the police car?

15           A     No, he wasn't.

16           Q     He was not?

17           A     He was not in the police car, no.

18           Q     Where was he?

19           A     Standing outside the door.

20           Q     He had been put in the police car and then had  
21 gotten back out?

22           A     He was about halfway in the police car.

23           Q     Was he offering any resistance?

24           A     Yes, he was.

25           Q     I thought you said a while ago he didn't offer any

1 resistance.

2 A I said until he got to the car.

3 Q Did y'all have to subdue him too?

4 A What do you mean by subdue him?

5 Q The way you subdued Mr. Blaylock.

6 BY MR. CRULL:

7 I would like for the Counsel to clear up because he  
8 has been talking about Lonnie Blaylock and I think he has  
9 his questions confused because he's trying to confuse the  
10 witness. He needs to make it clear if he is talking about  
11 Lonnie Blaylock or Herbert McNeer.

12 BY MR. GIBSON: (continuing)

13 Q All right. I'll ask you again. Did you have to  
14 subdue Mr. McNeer?

15 A I don't think I put a hand on Mr. McNeer.

16 Q Did anyone else put a hand on Mr. McNeer?

17 A Officer Marlow probably led him to the car.

18 Q Did he offer any resistance? Mr. McNeer.

19 A None that I saw.

20 Q But you just said he did, didn't you?

21 A No, sir, I didn't.

22 Q I believe you did.

23 A If I made that statement, it was because your  
24 questions were so confusing and I didn't understand.

25 Q I see. Mr. McNeer didn't offer any resistance?

1 A None that I saw.

2 Q At the time that you were trying to push Mr. Blay-  
3 lock into the car, it's your testimony that Mr. McNeer was  
4 out of the car?

5 A No, he wasn't.

6 Q Well, now, where was he?

7 A Mr. McNeer was in the car.

8 Q All right, sir. And this happened right at the  
9 door of the car?

10 A Mr. McNeer was in the car on the driver's side on  
11 the opposite side of the car from where I was at.

12 Q Yes, sir. He was in the back of the police car?

13 A Correct.

14 Q And y'all were trying to put Mr. Blaylock into  
15 the police car?

16 A That's true.

17 Q In the back of the police car?

18 A That's true.

19 Q When you got everybody in the police car, what did  
20 you do then?

21 A We went to the county jail.

22 Q Straight to the county jail?

23 A Yes.

24 Q What happened there?

25 A At that time we booked and placed Mr. McNeer in

1 jail. Lonnie Blaylock had been crying and going on about  
2 his ex-wife's death and things of that nature. His attitude  
3 had changed. He apologized to us. He was claiming that he  
4 needed to get outside the car to get some air. At that time,  
5 I let him out of the car and let him go inside the jail with  
6 us.

7 Q Did you know about Mr. Blaylock's previous wife's  
8 death?

9 A I did.

10 Q When did that happen?

11 A I would say probably a year or so before that time.  
12 I'm just guessing. I don't know specifically.

13 Q Did you then take-- Did you book Mr. Blaylock?

14 A I did.

15 Q You did at that time?

16 A I believe we did, yes.

17 Q What did you charge him with?

18 A Public drunk and resisting arrest.

19 Q You charged him with resisting arrest at that time?

20 A I did.

21 Q What did you do then?

22 A After we got Mr. McNeer in the jail, Lonnie's lip  
23 was cut and he also had a bruise on top of his forehead and  
24 he was reminding us that he had diabetes, sugar diabetes.  
25 So . . .

1 BY MR. CRULL:

2 Continue on.

3 BY THE WITNESS:

4 And so we carried him to the hospital and let the  
5 nurse check him out.

6 BY MR. GIBSON: (continuing)

7 Q Okay. What nurse saw him out there?

8 A Shirley Fields.

9 Q And what did she do?

10 A She cleaned his lip and called a doctor explaining  
11 his condition to him and notified us to bring him back up  
12 there about seven or eight o'clock the next morning. That  
13 morning I guess.

14 Q Was anyone with you when you took him to the  
15 hospital?

16 A Johnny Marlow.

17 Q What did you do after the nurse had cleaned Mr.  
18 Blaylock's cuts?

19 A We carried him back to the jail.

20 Q Did you see anyone between the time you left the  
21 hospital or at the hospital, other than the nurse, and the time  
22 you got back to the jail?

23 A In the parking lot.

24 Q What parking lot is that?

25 A In front of the hospital.

1 Q Who did you see?

2 A Lonnie's-- I guess you would call him his ex-father-  
3 in-law.

4 Q And who did you see down at the jailhouse the  
5 second time you were there?

6 A Sheriff Billy Costilow and Deputy Charles Bamburgh.

7 Q Were they there the first time that you brought  
8 Lonnie in?

9 A No, sir.

10 Q How much time had elapsed while y'all were at the  
11 hospital? Approximately how long did the trip to the  
12 hospital down and back take?

13 A Probably 25 or 30 minutes or maybe 45 minutes.  
14 I'm just guessing.

15 Q And the Sheriff was at the jail when y'all got back?

16 A He was.

17 Q And that would have been about 1:00 in the morning?

18 A Probably so.

19 Q Do you know why he was down there?

20 A I let Lonnie make 2 or 3 phone calls and also Mr.  
21 McNeer and they called him and asked him to come down there  
22 I think.

23 Q Did you visit the scene the next day after this  
24 happened?

25 A The scene?

1 Q Yes, sir. The scene where this altercation  
2 occurred out in front of Elceros.

3 A Yes. I probably went back in Elceros Restaurant.

4 Q Did you notice any blood or anything out on the  
5 sidewalk out there?

6 A None. I didn't notice it.

7 Q Was Mr. Blaylock bleeding that night?

8 A I would call it a superficial bleed, yes.

9 Q Of course, you are not a doctor.

10 A No, I'm not.

11 Q And you're absolutely sure that you charged Mr.  
12 Blaylock with resisting arrest the night of October 9, 1976?

13 A Absolutely.

14 Q No doubt in your mind?

15 A No doubt whatsoever.

16 Q Did you later charge him with resisting arrest the  
17 second time?

18 A I'm not sure I understand that question. I think  
19 I would have to consult my attorney to clarify that for me.

20 Q After this happened, did you consult with your  
21 attorney?

22 A I did.

23 Q Why?

24 A Because when I came back to work the next day,  
25 Lonnie had been released posting only a bond for a public

1 drunk instead of both for a public drunk and resisting arrest.

2 Q And then on the 13th of October you filed an  
3 affidavit for resisting arrest?

4 A I think that's correct.

5 Q And that was after you knew that Mr. Blaylock had  
6 an attorney?

7 A I didn't know whether Mr. Blaylock had an attorney  
8 at that time or not. I didn't know for several months that  
9 he did.

10 Q Do you recall the date of the hearing before city  
11 court on this cause?

12 A No, I don't.

13 Q Did you file this affidavit on resisting arrest  
14 after you had consulted with your attorney?

15 A I did.

16 Q Do you know who all was there when you discussed  
17 this with your attorney?

18 A He and myself.

19 Q Was anyone else there?

20 A No.

21 BY MR. GIBSON:

22 I don't have any further questions.

23 BY MR. CRULL:

24 I don't have any questions.

25 (The deposition of Mr. Johnson was compelled at  
12:00 Noon of the same day.)



CERTIFICATE OF COURT REPORTER

I, Sarah M. Rice, Court Reporter and Notary Public in and for the County of Leflore, State of Mississippi, hereby certify that the foregoing 43 pages constitute a true and correct transcript of the testimony of John Johnson as taken by me on the date and at the time and place heretofore stated, and later reduced to typewritten form to the best of my skill and ability.

I further certify that I placed the witness under oath to truthfully answer all questions propounded to him in his deposition, under the authority vested in me by the State of Mississippi.

I further certify that I am not in the employ of nor related to any Counsel or Party in this matter, and have no interest whatsoever in the outcome of this proceeding.

WITNESS MY SIGNATURE AND SEAL, this the 22nd day of August, 1978.



SARAH M. RICE

(SEAL)

My Commission Expires:

April 22, 1979

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VS.

No. WC 77-21-S

DEFENDANTS

JOHN M. JOHNSON, Individually, and as  
an officer of the Winona, Mississippi  
Police Department; JOHN MARLOW,  
Individually, and as an Officer of the  
Winona, Mississippi Police Department;  
GARY MOORE, Individually, and as Mayor  
of the City of Winona, Mississippi,  
M. E. DAVES, BILLY LANCASTER, HARRY  
LEE ROBINSON, EDWARD A. HAMMOND, JR.,  
and SPENCE TOWNSEND, Individually,  
and as Board of Aldermen of the  
City of Winona, Mississippi

FILED

AUG 24 1978

NORMAN L. GILLESPIE, CLERK

BY: *[Signature]* DEPUTY

DEPOSITIONS OF THE BOARD OF ALDERMEN OF  
THE CITY OF WINONA, MISSISSIPPI

APPEARANCES:

HONORABLE BILLY R. GIBSON

Gibson and Newlin

P. O. Box 355

Bruce, MS. 38915

(REPRESENTING PLAINTIFF)

HONORABLE LUTHER P. CRULL, JR.

Liston, Crull & Gibson

P. O. Box 645

Winona, MS. 38967

(REPRESENTING DEFENDANTS)

ALSO PRESENT:

Gary Moore, Mayor

Taken at the instance of the Plaintiff  
in the law offices of Liston, Crull &  
Gibson, 128 North Quitman, Winona, MS.  
on August 21, 1978, at 10:00 A.M.

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

INDEX

|    |  |         |
|----|--|---------|
| 1  |  |         |
| 2  |  |         |
| 3  | Style of Cause & Appearances-----            | 1       |
| 4  | Stipulation-----                             | 2       |
| 5  | EXAMINATION BY MR. GIBSON OF:                |         |
| 6  | Billy Lancaster-----                         | 2 - 10  |
| 7  | Harry Lee Robinson-----                      | 10 - 13 |
| 8  | M. E. Daves-----                             | 14 - 16 |
| 9  | Edward A. Hammond, Jr.-----                  | 16 - 19 |
| 10 | Spence Townsend-----                         | 20 - 23 |
| 11 | Certificate of Court Reporter-----           | 24      |
| 12 | Exhibit "1" to Mr. Lancaster's deposition is |         |
| 13 | attached at the end of this transcript.      |         |
| 14 |  |         |
| 15 |  |         |
| 16 |  |         |
| 17 |  |         |
| 18 |  |         |
| 19 |  |         |
| 20 |  |         |
| 21 |  |         |
| 22 |  |         |
| 23 |  |         |
| 24 |  |         |
| 25 |  |         |

S T I P U L A T I O N

It is stipulated by and between all Parties that the deposition of each Member of the Board of Aldermen of the City of Winona is being taken pursuant to the Federal Rules of Civil Procedure; that all formalities, including notice and the signature of the deponents, are hereby waived, but that all objections, except those as to the form of the question, are reserved until such time as the deposition, or any part thereof, is sought to be introduced into evidence.

BY MR. GIBSON:

For the purpose of the record, would you identify all persons present.

BY MR. CRULL:

Gary Moore, Harry Lee Robinson, M. E. Daves, Spence Townsend, Edward A. Hammond, Jr., Billy Lancaster, some of the defendants in the case along with their solicitor or attorney, Luther P. Crull, Jr. Then of course, Billy Gibson, attorney for Plaintiff, and Sarah Rice, Court Reporter

BILLY LANCASTER,

after having been first duly sworn, was examined and testified under oath as follows, to-wit:

DIRECT EXAMINATION

BY MR. GIBSON:

Q Would you state your name, please, sir.

A I'm Billy Lancaster.

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1 Q Mr. Lancaster, where do you live?

2 A 204 Church Street, Winona, Mississippi.

3 Q And that's in Montgomery County?

4 A Montgomery County.

5 Q How long have you lived there, Mr. Lancaster?

6 A About 20 years.

7 Q What is your present occupation?

8 A I'm in the construction business.

9 Q Now on October 9, 1976, were you a member of the  
10 Board of Aldermen of the Town of Winona?

11 A That date again?

12 Q October 9, 1976.

13 A Yes.

14 Q How long at that time had you been a member of the  
15 Board?

16 A I believe it was '73 I went in. I believe it was  
17 '73.

18 Q You went in in January of 1973?

19 A In July.

20 Q So were you a member of the Board when Officer  
21 John M. Johnson was hired by the town?

22 A Yes, sir. The second time he was hired.

23 Q Do I understand that he was an employee of the  
24 town on two occasions? Two different times?

25 A I think so.

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1 Q Do you recall when the first time was?

2 A September 1, 1972.

3 Q How long did he work for the Town of Winona at  
4 that time?

5 A Till April 27, 1973.

6 Q About a year?

7 A Approximately.

8 Q What was his position with the Town of Winona at  
9 that time?

10 A Patrolman.

11 Q Do you know what his rank was on this first time?

12 A I have no idea. That was the previous Board. I  
13 have no idea.

14 Q You don't have any knowledge of his employment at  
15 that time?

16 A No.

17 Q Were you a member of the Board when the Town of  
18 Winona employed him for this second period?

19 A I was.

20 Q Do you recall about when that was?

21 A August 3, 1975.

22 Q Did you conduct any investigation into Officer  
23 Johnson's employment history?

24 A We did; I did.

25 Q Do you recall what that investigation revealed?

SARAH M. RICE  
COURT REPORTER

109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1 A He made application to the City and we had a  
2 vacancy and his name was brought up for the vacancy. And I  
3 knew his father real well. He was a dependable type, honest  
4 individual. I didn't know the boy that well, but the night  
5 that the application was discussed he had real good references  
6 on his application. Two of the previous members of the  
7 Board were there that hired him the first time. The general  
8 knowledge of the boy he was dependable and well worthy of  
9 the job. Did you vote on the employment of John H. Johnson?

10 Q Did you inquire into his previous history as a  
11 police officer in other towns?

12 A I did and also with the City of Winona, too, on  
13 the first hiring. the Board vote in the affirmative?

14 Q Did you learn that he had been employed by any  
15 other towns as a police officer? by the other Board

16 A Yes. That was to be checked out through Chief  
17 Steed. He checked it out with Grenada. I believe with  
18 Chief Lovorn. he employed the same night that his employment

19 Q And you did find out that he had previously been  
20 employed by Grenada? believe so. I'm not for sure, but I don't

21 A Yes, sir. He was employed at the time. At the  
22 time, he was employed there. there were any adverse

23 Q And was his record satisfactory with the Grenada  
24 Police Department? to my knowledge.

25 A The Chief highly recommended him.



1 Q Which Chief was this?

2 A Chief Lovorn.

3 Q From Grenada?

4 A From Grenada.

5 Q Was he under any kind of pressure at that time  
6 from the Grenada Police Department to leave or anything like  
7 that?

8 A I have no idea. He was employed at the time.

9 Q Did you vote on the employment of John M. Johnson?

10 A I did.

11 Q Do you recall how you voted?

12 A I voted in the affirmative.

13 Q Did all the Board vote in the affirmative?

14 A I really don't know. I feel sure that they did.

15 Q You don't recall how any of the other Board  
16 members voted?

17 A No.

18 Q Was he employed the same night that his employment  
19 application was brought up?

20 A I don't believe so. I'm not for sure, but I don't  
21 believe so. I think there was another meeting. I'm not sur

22 Q Do you recall whether there were any adverse  
23 comments on his employment at the meeting?

24 A None, not to my knowledge.

25 Q You don't recall any.

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930



1 A In fact, I'm one of the ones that probably asked  
2 the most questions because I knew his father real well and  
3 I just knew the boy casually. But his application gave good  
4 references.

5 Q You employed him primarily because of his father?

6 A No. He and his application and his reference plus  
7 the other members of the Board.

8 Q Do you know whether or not Officer Johnson is  
9 presently a member of the Winona Police Department?

10 A He is not.

11 Q Do you know when he left his employment with  
12 the Winona Police Department?

13 A I believe he left-- I'll have to go back. Novem-  
14 ber 5, '76.

15 Q Were you a member of the Board of Aldermen at that  
16 time?

17 A I was.

18 Q Would you tell us whether or not he left of his  
19 own free will or whether he was terminated.

20 A He resigned.

21 Q Do you know what employment he engaged in after he  
22 resigned from the Winona Police Department?

23 A I have no idea.

24 Q I see you are testifying from notes there; is that  
25 correct, sir?

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

8  
1 A It's little notes on the dates.  
2 BY MR. GIBSON:

3 Q Counsel, I tender those into evidence.  
4 BY MR. CRULL:

5 A I object to them being tendered into evidence.  
6 BY MR. GIBSON:

7 A I believe he's testified from them and I have a  
8 right to tender them.

9 BY MR. CRULL:

10 Q You can make the tender; I object to it.

11 BY MR. GIBSON:

12 BY MR. CRULL: Are you going to allow him to submit them?

13 (Mr. Crull examines the notes.)

14 BY MR. CRULL:

15 I've really got no objection to it. For the  
16 record, I will object to them being put in because he could  
17 be cross examined subject to these notes.

18 (A copy of the notes were introduced and marked  
19 for identification as Exhibit "1" to the testi-  
20 mony of the witness and is attached at the end  
21 of this deposition.)

22 BY MR. GIBSON: (continuing)

23 Q I believe at the time in October of '76 and a  
24 period thereafter the City of Winona did not have a  
25 separate municipal court. Are you familiar with that?

1 A Not on the dates. I know that we had a municipal  
2 judge.

3 Q I believe the mayor served also as the municipal  
4 judge; is that right?

5 A Previously. We have a city judge.

6 Q You now have a city judge?

7 A Yes, sir.

8 Q Do you know when you instituted the city judge?

9 A Right at the end of my term.

10 Q When would that have been?

11 A Would have been probably in May of '77 I guess.

12 BY MR. CRULL:

13 May it please the Court, for the record I would  
14 object to these questions as being outside the context of  
15 the suit and irrelevant to the issues presented by the  
16 Complaint.

17 BY MR. GIBSON: ( continuing )

18 All right, sir. I don't agree with you, but I  
19 agree with your right to make the objection.

20 Q Do you know why the City of Winona instituted this  
21 separate municipal court system?

22 A Not really. I really don't. It was just brought  
23 up that a lot of other cities were doing it, and we just  
24 thought it was a good idea.

25 BY MR. GIBSON:

1 I don't have any further questions.  
2 (The deposition of Mr. Lancaster was completed at  
3 10:04 A.M. of the same morning, but Mr. Lancaster  
4 did not leave the room.)  
5

6  
7 HARRY LEE ROBINSON, July 1973  
8 after having been first duly sworn, was examined and  
9 testified under oath as follows, to-wit: the Board when  
10 DIRECT EXAMINATION

11 BY MR. GIBSON:

12 Q Would you state your name, please.

13 A Harry Lee Robinson.

14 Q Mr. Robinson, are you presently a resident of  
15 Winona, Mississippi?

16 A Yes, sir.

17 Q Did you serve on the Board of Aldermen of the City  
18 of Winona on October 9, 1976? Were you a member at that  
19 time?

20 A Yes, I was.

21 Q In connection with your service on the Board of  
22 Aldermen, you did know Officer John M. Johnson?

23 A Yes, sir.

24 Q And I believe you have heard the questions that I  
25 asked Mr. Lancaster?

A Yes, sir.

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1 Q Do you recall-- How long did you serve on the  
2 Board of Aldermen?

3 A One term, four years.

4 Q You are not presently a member?

5 A No, sir.

6 Q And you went on the Board in July of 1973?

7 A Yes, sir.

8 Q So you were present and a member of the Board when  
9 Mr. Johnson was hired?

10 A Yes, sir.

11 Q Do you recall the occasion of his hiring?

12 A Yes, sir.

13 Q Would you tell us how you voted on hiring Mr.  
14 Johnson.

15 A I voted in favor.

16 Q What did you base that vote on, please, sir?

17 A Personal knowledge. I had known him even during  
18 the time he had been in school; the investigation that we  
19 required of our Chief prior to any recommendation for any  
20 position, police officer or otherwise.

21 Q And your Chief at that time was Steed?

22 A Yes, sir.

23 Q Did he conduct an investigation of Mr. Johnson?

24 A Yes, sir.

25 Q And his previous employment history?

1 A Yes, sir.

2 Q His training as a police officer?

3 A To my knowledge, yes.

4 Q Do you recall what the results of that investigation  
5 were in reference to his training as a police officer?

6 A His training was under the previous administration  
7 when he was an officer at that time which was the Police  
8 Academy. That was the extent of the investigation.

9 Q He did attend the Police Academy?

10 A Yes, sir.

11 Q Did your report from Chief Steed indicate any  
12 previous occasions of impropriety on the part of Mr. Johnson  
13 in reference to his handling of his duties?

14 A No, sir.

15 Q None whatsoever?

16 A No, sir.

17 Q And you are not aware of any that might have  
18 occurred in the City of Winona?

19 A No, sir.

20 Q Were you serving on the Board of Aldermen when  
21 the City of Winona switched from the mayor serving as municipal  
22 judge to a separate municipal court system?

23 A Yes, sir.

24 BY MR. CRULL:

25 I object to any questions along this line as

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930



1 irrelevant.

2 BY MR. GIBSON: (continuing)

3 Q Do you recall why this separate municipal court  
4 system was adopted?

5 A The law had just been changed prior to us changing.  
6 The laws of the State of Mississippi had just been changed  
7 to allow municipalities of our size to go to a separate  
8 municipal judge.

9 Q And it is your understanding that prior to that  
10 municipalities of the size of Winona did not have the  
11 authority to have a separate court system?

12 A That's true.

13 BY MR. GIBSON:

14 I don't have any further questions.

15 (The deposition of Mr. Robinson was completed  
16 at 10:09 A.M. of the same morning.)

17 The examination of the Board of Aldermen of the  
18 Town of Winona was discontinued until 1:00 P.M.  
19 of the same day and testimony was resumed.

20 Q Do you recall that procedure?

21 A Yes, sir.

22 Q Did Mr. Johnson file a written application for  
23 employment with the City Board?

24 A Yes, sir.

25  
SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

M. E. DAVES.

after having been first duly sworn, was examined and testified under oath as follows, to-wit:

DIRECT EXAMINATION

BY MR. GIBSON:

Q State your name, please, sir.

A M. E. Daves.

Q Where do you live, Mr. Daves?

A Highway 82 West, Winona.

Q Do you live in the City of Winona?

A Yes, sir.

Q Are you presently on the Board of Aldermen of the City of Winona?

A Yes, sir.

Q How long have you served in that capacity?

A Since July of '73.

Q Were you a member of the Board of Aldermen of the City of Winona when the City hired Mr. John M. Johnson as a police officer the second time?

A Yes, sir.

Q Do you recall that occasion?

A Yes, sir.

Q Did Mr. Johnson file a written application for employment with the City Board?

A Yes, sir.



1 Q Did you or anyone on behalf of the Board conduct  
2 an investigation into the employment history and other  
3 background of Mr. Johnson?

4 A Yes, sir. We asked-- When the application was  
5 presented to us, we asked the Chief to check with the Grenada  
6 Police Department. I believe at that time he was still  
7 working for the Grenada Police Department. And he did and  
8 reported back to us that everything was in good shape.

9 Q Were you familiar with the fact that Mr. Johnson  
10 had previously been employed by the City of Winona?

11 A I knew about it, yes, sir, but I wasn't familiar  
12 with it.

13 Q Were you familiar with the controversy that had  
14 existed between Mr. Johnson and the previous mayor?

15 A No, sir.

16 Q You didn't know anything about that?

17 A No, sir.

18 Q Did you make inquiries from members of the former  
19 Board or from the former mayor as to Mr. Johnson's suitability  
20 to serve on the Winona Police Department?

21 A Yes, sir. I talked to some policemen that worked  
22 with Mr. Johnson before in his first term. In his first  
23 employment.

24 Q Did they give you any indication or any reason why  
25 you shouldn't employ Mr. Johnson?

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1 A No, sir. Nothing at all.

2 Q Did you inquire whether any complaints had been  
3 filed in reference to Mr. Johnson during his previous tenure  
4 with the Winona Police Department?

5 A I can't recall about complaints. Yes, sir, I did  
6 too.

7 Q And what were the results of that inquiry?

8 A None that they knew of.

9 Q Did you vote to employ Mr. Johnson?

10 A Yes, sir.

11 BY MR. GIBSON:

12 No further questions.

13 (The deposition of Mr. Daves was completed at  
14 1:05 of the same day, but he did not leave the  
15 room.)

16 EDWARD A. HAMMOND, JR.  
17 after having been first duly sworn, was examined and  
18 testified under oath, to-wit:

19 DIRECT EXAMINATION

20 BY MR. GIBSON:

21 Q Would you state your name, please, sir.

22 A My name is Edward A. Hammond, Jr.

23 Q Mr. Hammond, do you live in the City of Winona?

24 A I do.

25 Q How long have you lived here?

1 A Since 1937.

2 Q And how old are you?

3 A 43.

4 Q Are you presently a member of the Board of Aldermen  
5 of the City of Winona?

6 A I am not.

7 Q Were you formerly a member of the Board of Alder-  
8 men?

9 A I was.

10 Q During what years did you serve in that capacity?

11 A July 1969 to July 1977.

12 Q So you were on the Board during both the periods  
13 of employment of Mr. Johnson?

14 A I was.

15 Q The first time that the City of Winona employed  
16 Mr. Johnson, do you recall whether or not any investigation  
17 was conducted as to his background and suitability to serve  
18 as a police officer?

19 A Well, sir, since he had not been a police officer  
20 before, we knew of him and thought he was a good man and  
21 would make a good police officer because we knew his family  
22 and knew of him and knew he had not had anything detrimental  
23 against his character. A fine young man.

24 Q And based on that, you employed him?

25 A That's all I can remember at the moment. His

1 family and personal knowledge of him as a young man and  
2 suitability by recommendation by the police chief.

3 Q Who was the chief at that time?

4 A Tommy Herrod.

5 Q Were you a member of the Board when Mr. Johnson  
6 terminated his employment with the City?

7 A Yes, sir. I have served 8 years. I was there.

8 Q Did you know any of the circumstances surrounding  
9 that termination?

10 A I heard later that he had terminated himself  
11 because he couldn't get along with Mayor Fred Watts.

12 Q Did you know any of the details of that?

13 A Street talk, yes, sir. The man was not there and  
14 we couldn't get him back.

15 Q You didn't know anything personally?

16 A No, sir. I wasn't present when it happened.

17 Q Okay. The second occasion that you hired Mr.  
18 Johnson, did you make any inquiries before voting on that  
19 occasion?

20 A Oh, yes, sir.

21 Q Did you go back and investigate exactly what sort  
22 of dispute had occurred between the former mayor and Mr.  
23 Johnson?

24 A Yes, sir. We knew more about it by then.

25 Q What did your investigation reveal?

1 A It revealed that the man just couldn't get along  
2 with Fred Watts and he just couldn't work with him. He had  
3 been a good police officer for the City of Winona so I was  
4 all for him to be rehired the second time.

5 Q And you voted to rehire him?

6 A Yes, sir.

7 Q Did you have any knowledge of any complaints that  
8 had been filed against him over at Grenada?

9 A No, sir.

10 Q Any complaints that might have been filed on him  
11 during his first term as a policeman for the City of Winona?

12 A None that I knew of.

13 Q Did you check?

14 A Asked the Chief if he had had any complaints filed  
15 against him and he said no.

16 Q Were you a member of the Board when Mr. Johnson  
17 left the employment of the City the second time?

18 A Yes, sir.

19 Q What were the circumstances? Did he quit or was  
20 he asked to leave?

21 A He quit on his own.

22 Q Did he give any reason?

23 A None that I can remember.

24 BY MR. GIBSON:

25 I don't have any further questions.

(The deposition of Mr. Hammond was completed at  
1:09, but he did not leave the room.)

1                                    SPENCE TOWNSEND,

2    after having been first duly sworn, was examined and testified  
3    under oath as follows, to-wit:

4    DIRECT EXAMINATION

5    BY MR. GIBSON:

6            Q    You are Mr. Spence Townsend?

7            A    Right.

8            Q    Where do you live?

9            A    Live in Winona.

10          Q    How long have you lived here?

11          A    72 years.

12          Q    Do you presently serve on the Board?

13          A    Yes, sir.

14          Q    How long have you served on the Board?

15          A    You're going to have to let me run it through  
16    my mind. I was elected in '53 and served until '65. I ran  
17    and got beat and then served from '65 to '69. I ran the  
18    next time and been there ever since. Been elected 3 times;  
19    6 terms.

20          Q    Very good. Mr. Townsend, you were, of course, on  
21    the Board when the City employed Mr. Johnson the first time?

22          A    Yes, sir.

23          Q    You did vote for him on that occasion?

24          A    Yes, sir.

25          Q    And you had no reason not to vote for him.



1 A No, sir.

2 Q Did you have any reason to vote for him?

3 A Yes, sir, I did.

4 Q What was that?

5 A Well, I grew up in the country and town 35 years  
6 ago and the town wasn't like it is now. I knew the country  
7 folks just like I did town folks. Further on back, I went  
8 to school with his uncle. Went all the way through high  
9 school with him. He was one of my best friends. I knew the  
10 family better than I knew the boy, but their reputation was  
11 good. They were my friends and I couldn't find anything  
12 against him.

13 Q You voted for him primarily because of your knowl-  
14 edge of his family?

15 A Well, not necessarily because we had his applica-  
16 tion. I asked 3 or 4 people and we had the chief to investi-  
17 gate it too. Mr. Tommy Herrod.

18 Q Were you familiar with the circumstances about  
19 the little dispute between Mr. Johnson and the mayor during  
20 his first term?

21 A I knew a little about it, yes, sir.

22 Q You knew there were some hard feelings there?

23 A Well, I knew they couldn't get along.

24 Q When you employed him the second time, did you make  
25 any investigation as to his suitability for the office?

1 A I certainly did.

2 Q What did you do?

3 A I asked him why he was leaving Grenada. I asked  
4 him why he was coming. I wanted to know because we had  
5 elected him once or appointed him once up there and before  
6 we hired him again, I wanted to know what we were doing. And  
7 he said the only reason he could give me was he wanted to  
8 get back home. That he still had his job up there and they  
9 would keep him on, but he wanted to get back home.

10 Q And did that satisfy you?

11 A Well, with what other information I had by asking  
12 folks and the chief of police, it did, yes, sir.

13 Q Who all did you ask?

14 A Well, I asked a fellow Stidum for one. I can't  
15 recall them all. It seems like I asked Gary Moore over there  
16 but I'm not sure. I asked Billy Lancaster. He was up in  
17 that country there working up that way.

18 Q Did you check with anyone from Grenada?

19 A I can't say that I did.

20 Q Were you aware of any complaints in regards to  
21 Officer Johnson with the Grenada Police Department?

22 A No, sir.

23 Q And you voted to employ him the second time?

24 A I did.

25 BY MR. GIBSON:



That's all I have.

(The deposition of Mr. Townsend was completed at 1:12 P.M. of the same day.)  
This completed the taking of the depositions of Alder, the Board of Aldermen of the City of Winona.  
at the time and place hereinbefore stated in the aforementioned matter, and later reduced to typewritten form to the best of my skill and ability.

I further certify that I placed the witnesses under oath to truthfully answer all questions propounded to them in their depositions, under the authority vested in me by the State of Mississippi.

I further certify that I am not in the employ of, nor related to any Counsel or Party in this matter, and have no interest whatsoever in the outcome of this proceeding.

WITNESS MY SIGNATURE AND SEAL, this the 22nd day of August, 1978.

  
SARAH M. RICE

(SEAL)

22 Considered Fulfilled:  
22-11-22, 1979

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

CERTIFICATE OF COURT REPORTER

I, Sarah M. Rice, Court Reporter and Notary Public in and for the County of Leflore, State of Mississippi, hereby certify that the foregoing 23 pages constitute a true and correct transcript of the testimony of the Board of Aldermen of the Town of Winona, Mississippi, on the date and at the time and place heretofore stated in the aforementioned matter, and later reduced to typewritten form to the best of my skill and ability.

I further certify that I placed the witnesses under oath to truthfully answer all questions propounded to them in their depositions, under the authority vested in me by the State of Mississippi.

I further certify that I am not in the employ of nor related to any Counsel or Party in this matter, and have no interest whatsoever in the outcome of this proceeding.

WITNESS MY SIGNATURE AND SEAL, this the 22nd day of August, 1978.

  
SARAH M. RICE

(SEAL)

My Commission Expires:

April 22, 1979

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

8-3-1975

Creary Creek Rd.

① Personal Photo

② Former Alderman

③ Chief clerk with house

④ Address from 6

⑤ Record by chief

Oct 9-1976

Incident at C's

Restaurant - 11-5-76 Reg. 6

Charles Brown not

hired by Alderman.

Johnny Noel Melton

Oct 14-1975 hired

June 5, 1978 Resigned to  
Miss Heleny Patrol Melton

John M. Johnson

First hired by City

Sept - 1 - 1972

Resigned

April 27, 1973

Re-hired by us

August 3-1975

Knew his father - end name  
in common by honest dependable  
sober chief clerk with that  
house grounds. John Applicant  
for employment had good references  
Billy Meyer former clerk -  
Dr. Tom Dalia - Supt. Public Schools

EXHIBIT " 1 "

EXHIBIT " 1 "

20

21

22

23

24

25

SARAH M. RICE  
COURT REPORTER  
109 Beatrice St. 601-453-5518  
Greenwood, Mississippi 38930

1  
2  
3  
4  
5  
6 No record of arrest or other  
undiscoverable characteristics -

7 Chief Starnes regarded him  
8 highly. I questioned the fact  
9 he had previously worked for  
10 City. The other witnesses  
11 have previously heard Little  
12 name - political - ~~they~~  
13 patrolman - was doing job  
14 and Meyer would not meet  
15 him -

16 July 1, 1973 - Filed

17 Johnson Filed April 1

18 August 3 - 1975 -

19 Hired by U.S.

20  
21 EXHIBIT " 1 "  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VERSUS

NO. WC77-21-S

JOHN M. JOHNSON, Individually,  
and as an Officer of the Winona,  
Mississippi Police Department;  
JOHN MARLOW, Individually, and  
as an Officer of the Winona,  
Mississippi Police Department;  
GARY MOORE, Individually, and as  
Mayor of the City of Winona,  
Mississippi; M. E. DAVES, BILLY  
LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR., and  
SPENCE TOWNSEND, Individually,  
and as Board of Aldermen of the  
City of Winona, Mississippi

DEFENDANTS

NOTICE OF MOTION

**FILED**

TO: HONORABLE BILLY R. GIBSON  
P. O. Box 355  
Bruce, Mississippi 38915

SEP 27 1978

ATTORNEY FOR PLAINTIFF

NORMAN L. GILLESPIE, CLERK  
by Z. W. Adkins  
Deputy

PLEASE TAKE NOTICE that the attached Motion for Summary Judgment of Defendants, M. E. Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammond, Jr., and Spence Townsend, and For Partial Summary Judgment for Defendant, Gary Moore, will be brought on for hearing before Honorable Orma Smith, United States District Judge, at such time and place as counsel can be heard.

Luther P. Crull, Jr.  
LUTHER P. CRULL, JR.  
128 North Quitman Avenue  
Winona, Mississippi 38967

ATTORNEY FOR DEFENDANTS

OF COUNSEL:

LISTON, CRULL & GIBSON  
128 North Quitman Avenue  
Winona, Mississippi 38967

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VERSUS

NO. WC77-21-S

JOHN M. JOHNSON, Individually,  
and as an Officer of the Winona,  
Mississippi Police Department;  
JOHN MARLOW, Individually, and  
as an Officer of the Winona,  
Mississippi Police Department;  
GARY MOORE, Individually, and as  
Mayor of the City of Winona,  
Mississippi; M. E. DAVES, BILLY  
LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR., and  
SPENCE TOWNSEND, Individually,  
and as Board of Aldermen of the  
City of Winona, Mississippi

**FILED**

SEP 27 1978

NORMAN L. GILLESPIE, CLERK

*L. W. H. H. H. H. H.*  
Deputy,

DEFENDANTS

MOTION FOR SUMMARY JUDGMENT OF DEFENDANTS,  
M. E. DAVES, BILLY LANCASTER, HARRY LEE  
ROBINSON, EDWARD A. HAMMOND, JR., AND  
SPENCE TOWNSEND, AND FOR PARTIAL SUMMARY  
JUDGMENT FOR DEFENDANT, GARY MOORE

Come now M. E. Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammond, Jr. and Spence Townsend, and Gary Moore, some of the defendants in the above-styled and numbered cause, by and through their attorneys of record, and respectfully move the Court to enter, pursuant to Rule 56(b) of the Federal Rules of Civil Procedure, a summary judgment and partial summary judgment, respectively, in their favor in the above-styled and numbered cause, on the ground that there is no genuine issue as to any material fact as to the non-liability of the defendants to the plaintiff on the issue of negligent hiring and that the defendants are entitled to a judgment as a matter of law in said cause.

This motion is based upon:

(a) Complaint of Lonnie L. Blaylock;

(b) Answers of the defendants;


(c) Affidavits of the defendants, M. E.

Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammond, Jr., Spence Townsend and Gary Moore, the originals of which are attached hereto, marked "Exhibits A-F" respectively, and incorporated herein by reference;

(d) Depositions of defendants, Billy Lancaster, Harry Lee Robinson, M. E. Daves, Edward A. Hammond, Jr. and Spence Townsend duly filed in said cause on the       day of August, A.D., 1978.

WHEREFORE, PREMISES CONSIDERED, defendants, M. E. Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammond, Jr. and Spence Townsend, move that the Court grant unto them a summary judgment, and defendant, Gary Moore, moves the Court to grant unto him a partial summary judgment on the issue of negligent hiring.

Respectfully submitted:

  
LUTHER P. CRULL, JR.  
128 North Quitman Avenue  
Winona, Mississippi 38967

ATTORNEY FOR DEFENDANTS

OF COUNSEL:

LISTON, CRULL & GIBSON  
128 North Quitman Avenue  
Winona, Mississippi 38967



STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

AFFIDAVIT

Personally appeared before me, the undersigned authority of law in and for said State and County, the within named M. E. DAVES, who, upon being duly sworn, saith:

1. I am one of the defendants in the above-styled and numbered cause and was a duly elected and acting member of the Board of Aldermen of the City of Winona, Mississippi, on November 4, 1975, when defendant, John M. Johnson, was hired as a policeman with the City of Winona Police Department by a unanimous vote of the five-member Board of Aldermen and was serving in said capacity on October 9, 1976, the date of the occurrence complained of.

2. Before the Board of Aldermen voted to hire defendant Johnson in the aforesaid capacity, as it did for all applicants for police work, it undertook to investigate defendant Johnson's background and qualifications. The Board had substantial information relative to defendant Johnson's personal and professional background, which information included, but was not limited to, the following:

(a) The Board of Aldermen requested the then Chief of Police of the City of Winona, H. L. Steed, to contact Johnson's then present employer, City of Grenada, Mississippi, Police Department. Consistent with said instructions, Chief Steed talked with the Chief of Police of the Grenada, Mississippi, Police Department, C. H. Lovern, in regard to defendant Johnson's qualifications and was advised that Johnson

"Exhibit A"

was a well-qualified, trained policeman and had done an excellent job as a policeman for the City of Grenada. Additionally, Mayor Gary Moore contacted Chief Lovern independently and was similarly advised by Chief Lovern. Neither Chief Steed nor Mayor Moore were advised by Lovern that Johnson had an alleged propensity for violence or maltreatment for persons under arrest as alleged in the Complaint filed herein.

(b) Several of the Aldermen knew the defendant Johnson personally as early as his high school days in the Winona Public School system and other Aldermen knew his parents and relatives. Also, Patrolman Johnson had been employed previously by the City of Winona Police Department before being employed by the City of Grenada Police Department. Several Aldermen had official and personal knowledge as to Johnson's prior work record with the City of Winona and his qualifications for the job of patrolman.

(c) Patrolman Johnson had on file his application for employment, which listed as references thereon Dr. Tom Dulin, Superintendent of the Winona Public Schools, and Mr. Billy Morgan, Patrolman with the Mississippi State Highway Patrol. These references were investigated and they resulted in defendant Johnson's receiving good recommendations. These references did not indicate in any way defendant Johnson's alleged propensities for violence and maltreatment of persons under arrest, as alleged in the Complaint.

defendant Johnson was hired as a police officer nor at any time subsequent thereto, including the date of the alleged occurrence on October 9, 1976.

5. I was neither officially, nor personally, involved in the arrest of the plaintiff and the alleged altercations between plaintiff and defendants, Johnson and Marlow. Further, I neither directed defendants, Johnson and Marlow, to act in any fashion, nor did I know anything about the alleged occurrence until a time subsequent thereto.

6. I did not promote in any way a policy of the Board of Mayor and Aldermen which sanctioned, ratified or condoned the alleged misconduct and actions which allegedly caused a violation of plaintiff's constitutional rights as alleged in the Complaint.

7. The Board of Aldermen provided training for all of its policemen, including Policeman Johnson, at the Police Academy in Jackson, Mississippi, and supervised the actions of the Police Department by receiving periodic reports from the Chief of Police and by personal attention and investigation. The knowledge possessed by me relative to the Police Department never revealed any pattern of illegal activity by said Department which would have violated the consitutional rights of any individual. If a pattern of illegal activity by the Police Department had been discovered by me, I would have responded in some positive way to eliminate said activity.

Further, affiant saith not.

  
M. E. DAVES

SWORN TO AND SUBSCRIBED before me, this the 26th  
day of September, A.D., 1978.

Larry G. Martin  
NOTARY PUBLIC

My commission expires:

MY COMMISSION EXPIRES MARCH 6, 1982

STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

AFFIDAVIT

Personally appeared before me, the undersigned authority of law in and for said State and County, the within named BILLY LANCASTER, who, upon being duly sworn, saith:

1. I am one of the defendants in the above-styled and numbered cause and was a duly elected and acting member of the Board of Aldermen of the City of Winona, Mississippi, on November 4, 1975, when defendant, John M. Johnson, was hired as a policeman with the City of Winona Police Department by a unanimous vote of the five-member Board of Aldermen and was serving in said capacity on October 9, 1976, the date of the occurrence complained of.

2. Before the Board of Aldermen voted to hire defendant Johnson in the aforesaid capacity, as it did for all applicants for police work, it undertook to investigate defendant Johnson's background and qualifications. The Board had substantial information relative to defendant Johnson's personal and professional background, which information included, but was not limited to, the following:

(a) The Board of Aldermen requested the then Chief of Police of the City of Winona, H. L. Steed, to contact Johnson's then present employer, City of Grenada, Mississippi, Police Department. Consistent with said instructions, Chief Steed talked with the Chief of Police of the Grenada, Mississippi, Police Department, C. H. Lovern, in regard to defendant Johnson's qualifications and was advised that Johnson

" Exhibit B "

was a well-qualified, trained policeman and had done an excellent job as a policeman for the City of Grenada. Additionally, Mayor Gary Moore contacted Chief Lovern independently and was similarly advised by Chief Lovern. Neither Chief Steed nor Mayor Moore were advised by Lovern that Johnson had an alleged propensity for violence or maltreatment for persons under arrest as alleged in the Complaint filed herein.

(b) Several of the Aldermen knew the defendant Johnson personally as early as his high school days in the Winona Public School system and other Aldermen knew his parents and relatives. Also, Patrolman Johnson had been employed previously by the City of Winona Police Department before being employed by the City of Grenada Police Department. Several Aldermen had official and personal knowledge as to Johnson's prior work record with the City of Winona and his qualifications for the job of patrolman.

(c) Patrolman Johnson had on file his application for employment, which listed as references thereon Dr. Tom Dulin, Superintendent of the Winona Public Schools, and Mr. Billy Morgan, Patrolman with the Mississippi State Highway Patrol. These references were investigated and they resulted in defendant Johnson's receiving good recommendations. These references did not indicate in any way defendant Johnson's alleged propensities for violence and maltreatment of persons under arrest, as alleged in the Complaint.

(d) Defendant Johnson had previously attended the Police Academy in Jackson, Mississippi, and was a trained police officer with approximately three and one-half years prior law enforcement experience with the City of Winona and City of Grenada police departments. Further, Chief H. L. Steed, the then duly elected and acting Chief of Police of the City of Winona, Mississippi, did recommend defendant Johnson based upon Chief Steed's investigation of defendant Johnson's personal and professional qualifications for the job of police officer.

3. I was also a duly elected and acting member of the Board of Aldermen of the City of Winona, Mississippi, when defendant Marlow was hired as a policeman by said Board. Chief Steed conducted a similar investigation into the personal and professional qualification of defendant Marlow for the position of policeman and several of the Board members knew defendant Marlow or his family personally. The Board's investigation of defendant Marlow did not reveal that he had an alleged propensity for violence, nor a rumor thereof. The investigation did reveal that he was personally and professionally qualified for the job of policeman and based upon this investigation and upon the recommendation of Chief of Police H. L. Steed defendant Marlow was hired as a policeman. Subsequent to said hiring, defendant Marlow performed his duties well and no information or even rumors were received by the Board relative to any alleged propensity for violence or maltreatment of prisoners.

4. I had no knowledge of defendant Johnson's alleged propensities for violence as alleged in the Complaints nor had I heard rumors relative thereto at the aforesaid time



defendant Johnson was hired as a police officer nor at any time subsequent thereto, including the date of the alleged occurrence on October 9, 1976.

5. I was neither officially, nor personally, involved in the arrest of the plaintiff and the alleged altercations between plaintiff and defendants, Johnson and Marlow. Further, I neither directed defendants, Johnson and Marlow, to act in any fashion, nor did I know anything about the alleged occurrence until a time subsequent thereto.

6. I did not promote in any way a policy of the Board of Mayor and Aldermen which sanctioned, ratified or condoned the alleged misconduct and actions which allegedly caused a violation of plaintiff's constitutional rights as alleged in the Complaint.

7. The Board of Aldermen provided training for all of its policemen, including Policeman Johnson, at the Police Academy in Jackson, Mississippi, and supervised the actions of the Police Department by receiving periodic reports from the Chief of Police and by personal attention and investigation. The knowledge possessed by me relative to the Police Department never revealed any pattern of illegal activity by said Department which would have violated the constitutional rights of any individual. If a pattern of illegal activity by the Police Department had been discovered by me, I would have responded in some positive way to eliminate said activity.

Further, affiant saith not.

  
BILLY LANCASTER



SWORN TO AND SUBSCRIBED before me, this the 26th  
day of September, A.D., 1978.

Laurel G. Marten  
NOTARY PUBLIC

My commission expires:  
MY COMMISSION EXPIRES MARCH 6, 1982  

---

STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

AFFIDAVIT

Personally appeared before me, the undersigned authority of law in and for said State and County, the within named HARRY LEE ROBINSON, who, upon being duly sworn, saith:

1. I am one of the defendants in the above-styled and numbered cause and was a duly elected and acting member of the Board of Aldermen of the City of Winona, Mississippi, on November 4, 1975, when defendant, John M. Johnson, was hired as a policeman with the City of Winona Police Department by a unanimous vote of the five-member Board of Aldermen and was serving in said capacity on October 9, 1976, the date of the occurrence complained of.

2. Before the Board of Aldermen voted to hire defendant Johnson in the aforesaid capacity, as it did for all applicants for police work, it undertook to investigate defendant Johnson's background and qualifications. The Board had substantial information relative to defendant Johnson's personal and professional background, which information included, but was not limited to, the following:

(a) The Board of Aldermen requested the then Chief of Police of the City of Winona, H. L. Steed, to contact Johnson's then present employer, City of Grenada, Mississippi, Police Department. Consistent with said instructions, Chief Steed talked with the Chief of Police of the Grenada, Mississippi, Police Department, C. H. Lovern, in regard to defendant Johnson's qualifications and was advised that Johnson

"Exhibit c"

was a well-qualified, trained policeman and had done an excellent job as a policeman for the City of Grenada. Additionally, Mayor Gary Moore contacted Chief Lovern independently and was similarly advised by Chief Lovern. Neither Chief Steed nor Mayor Moore were advised by Lovern that Johnson had an alleged propensity for violence or maltreatment for persons under arrest as alleged in the Complaint filed herein.

(b) Several of the Aldermen knew the defendant Johnson personally as early as his high school days in the Winona Public School system and other Aldermen knew his parents and relatives. Also, Patrolman Johnson had been employed previously by the City of Winona Police Department before being employed by the City of Grenada Police Department. Several Aldermen had official and personal knowledge as to Johnson's prior work record with the City of Winona and his qualifications for the job of patrolman.

(c) Patrolman Johnson had on file his application for employment, which listed as references thereon Dr. Tom Dulin, Superintendent of the Winona Public Schools, and Mr. Billy Morgan, Patrolman with the Mississippi State Highway Patrol. These references were investigated and they resulted in defendant Johnson's receiving good recommendations. These references did not indicate in any way defendant Johnson's alleged propensities for violence and maltreatment of persons under arrest, as alleged in the Complaint.

(d) Defendant Johnson had previously attended the Police Academy in Jackson, Mississippi, and was a trained police officer with approximately three and one-half years prior law enforcement experience with the City of Winona and City of Grenada police departments. Further, Chief H. L. Steed, the then duly elected and acting Chief of Police of the City of Winona, Mississippi, did recommend defendant Johnson based upon Chief Steed's investigation of defendant Johnson's personal and professional qualifications for the job of police officer.

3. I was also a duly elected and acting member of the Board of Aldermen of the City of Winona, Mississippi, when defendant Marlow was hired as a policeman by said Board. Chief Steed conducted a similar investigation into the personal and professional qualification of defendant Marlow for the position of policeman and several of the Board members knew defendant Marlow or his family personally. The Board's investigation of defendant Marlow did not reveal that he had an alleged propensity for violence, nor a rumor thereof. The investigation did reveal that he was personally and professionally qualified for the job of policeman and based upon this investigation and upon the recommendation of Chief of Police H. L. Steed defendant Marlow was hired as a policeman. Subsequent to said hiring, defendant Marlow performed his duties well and no information or even rumors were received by the Board relative to any alleged propensity for violence or maltreatment of prisoners.

4. I had no knowledge of defendant Johnson's alleged propensities for violence as alleged in the Complaints nor had I heard rumors relative thereto at the aforesaid time


defendant Johnson was hired as a police officer nor at any time subsequent thereto, including the date of the alleged occurrence on October 9, 1976.

5. I was neither officially, nor personally, involved in the arrest of the plaintiff and the alleged altercations between plaintiff and defendants, Johnson and Marlow. Further, I neither directed defendants, Johnson and Marlow, to act in any fashion, nor did I know anything about the alleged occurrence until a time subsequent thereto.

6. I did not promote in any way a policy of the Board of Mayor and Aldermen which sanctioned, ratified or condoned the alleged misconduct and actions which allegedly caused a violation of plaintiff's constitutional rights as alleged in the Complaint.

7. The Board of Aldermen provided training for all of its policemen, including Policeman Johnson, at the Police Academy in Jackson, Mississippi, and supervised the actions of the Police Department by receiving periodic reports from the Chief of Police and by personal attention and investigation. The knowledge possessed by me relative to the Police Department never revealed any pattern of illegal activity by said Department which would have violated the constitutional rights of any individual. If a pattern of illegal activity by the Police Department had been discovered by me, I would have responded in some positive way to eliminate said activity.

Further, affiant saith not.

  
HARRY LEE ROBINSON

SWORN TO AND SUBSCRIBED before me, this the 26th  
day of September, A.D., 1978.

Lanelle G. Martin  
NOTARY PUBLIC

My commission expires:  
~~MY COMMISSION EXPIRES MARCH 6, 1982~~  
\_\_\_\_\_

STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

AFFIDAVIT

Personally appeared before me, the undersigned authority of law in and for said State and County, the within named EDWARD A. HAMMOND, JR., who, upon being duly sworn, saith:

1. I am one of the defendants in the above-styled and numbered cause and was a duly elected and acting member of the Board of Aldermen of the City of Winona, Mississippi, on November 4, 1975, when defendant, John M. Johnson, was hired as a policeman with the City of Winona Police Department by a unanimous vote of the five-member Board of Aldermen and was serving in said capacity on October 9, 1976, the date of the occurrence complained of.

2. Before the Board of Aldermen voted to hire defendant Johnson in the aforesaid capacity, as it did for all applicants for police work, it undertook to investigate defendant Johnson's background and qualifications. The Board had substantial information relative to defendant Johnson's personal and professional background, which information included, but was not limited to, the following:

(a) The Board of Aldermen requested the then Chief of Police of the City of Winona, H. L. Steed, to contact Johnson's then present employer, City of Grenada, Mississippi, Police Department. Consistent with said instructions, Chief Steed talked with the Chief of Police of the Grenada, Mississippi, Police Department, C. H. Lovern, in regard to defendant Johnson's qualifications and was advised that Johnson

" Exhibit D "

was a well-qualified, trained policeman and had done an excellent job as a policeman for the City of Grenada. Additionally, Mayor Gary Moore contacted Chief Lovern independently and was similarly advised by Chief Lovern. Neither Chief Steed nor Mayor Moore were advised by Lovern that Johnson had an alleged propensity for violence or maltreatment for persons under arrest as alleged in the Complaint filed herein.

(b) Several of the Aldermen knew the defendant Johnson personally as early as his high school days in the Winona Public School system and other Aldermen knew his parents and relatives. Also, Patrolman Johnson had been employed previously by the City of Winona Police Department before being employed by the City of Grenada Police Department. Several Aldermen had official and personal knowledge as to Johnson's prior work record with the City of Winona and his qualifications for the job of patrolman.

(c) Patrolman Johnson had on file his application for employment, which listed as references thereon Dr. Tom Dulin, Superintendent of the Winona Public Schools, and Mr. Billy Morgan, Patrolman with the Mississippi State Highway Patrol. These references were investigated and they resulted in defendant Johnson's receiving good recommendations. These references did not indicate in any way defendant Johnson's alleged propensities for violence and maltreatment of persons under arrest, as alleged in the Complaint.



(d) Defendant Johnson had previously attended the Police Academy in Jackson, Mississippi, and was a trained police officer with approximately three and one-half years prior law enforcement experience with the City of Winona and City of Grenada police departments. Further, Chief H. L. Steed, the then duly elected and acting Chief of Police of the City of Winona, Mississippi, did recommend defendant Johnson based upon Chief Steed's investigation of defendant Johnson's personal and professional qualifications for the job of police officer.

3. I was also a duly elected and acting member of the Board of Aldermen of the City of Winona, Mississippi, when defendant Marlow was hired as a policeman by said Board. Chief Steed conducted a similar investigation into the personal and professional qualification of defendant Marlow for the position of policeman and several of the Board members knew defendant Marlow or his family personally. The Board's investigation of defendant Marlow did not reveal that he had an alleged propensity for violence, nor a rumor thereof. The investigation did reveal that he was personally and professionally qualified for the job of policeman and based upon this investigation and upon the recommendation of Chief of Police H. L. Steed defendant Marlow was hired as a policeman. Subsequent to said hiring, defendant Marlow performed his duties well and no information or even rumors were received by the Board relative to any alleged propensity for violence or maltreatment of prisoners.

4. I had no knowledge of defendant Johnson's alleged propensities for violence as alleged in the Complaints nor had I heard rumors relative thereto at the aforesaid time


defendant Johnson was hired as a police officer nor at any time subsequent thereto, including the date of the alleged occurrence on October 9, 1976.

5. I was neither officially, nor personally, involved in the arrest of the plaintiff and the alleged altercations between plaintiff and defendants, Johnson and Marlow. Further, I neither directed defendants, Johnson and Marlow, to act in any fashion, nor did I know anything about the alleged occurrence until a time subsequent thereto.

6. I did not promote in any way a policy of the Board of Mayor and Aldermen which sanctioned, ratified or condoned the alleged misconduct and actions which allegedly caused a violation of plaintiff's constitutional rights as alleged in the Complaint.

7. The Board of Aldermen provided training for all of its policemen, including Policeman Johnson, at the Police Academy in Jackson, Mississippi, and supervised the actions of the Police Department by receiving periodic reports from the Chief of Police and by personal attention and investigation. The knowledge possessed by me relative to the Police Department never revealed any pattern of illegal activity by said Department which would have violated the constitutional rights of any individual. If a pattern of illegal activity by the Police Department had been discovered by me, I would have responded in some positive way to eliminate said activity.

Further, affiant saith not.

  
EDWARD A. HAMMOND, JR.

SWORN TO AND SUBSCRIBED before me, this the 26th  
day of September, A.D., 1978.

Lanelle G. Marten  
NOTARY PUBLIC

My commission expires:  
MY COMMISSION EXPIRES MARCH 6, 1982

---

STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

AFFIDAVIT

Personally appeared before me, the undersigned authority of law in and for said State and County, the within named SPENCE TOWNSEND, who, upon being duly sworn, saith:

1. I am one of the defendants in the above-styled and numbered cause and was a duly elected and acting member of the Board of Aldermen of the City of Winona, Mississippi, on November 4, 1975, when defendant, John M. Johnson, was hired as a policeman with the City of Winona Police Department by a unanimous vote of the five-member Board of Aldermen and was serving in said capacity on October 9, 1976, the date of the occurrence complained of.

2. Before the Board of Aldermen voted to hire defendant Johnson in the aforesaid capacity, as it did for all applicants for police work, it undertook to investigate defendant Johnson's background and qualifications. The Board had substantial information relative to defendant Johnson's personal and professional background, which information included, but was not limited to, the following:

(a) The Board of Aldermen requested the then Chief of Police of the City of Winona, H. L. Steed, to contact Johnson's then present employer, City of Grenada, Mississippi, Police Department. Consistent with said instructions, Chief Steed talked with the Chief of Police of the Grenada, Mississippi, Police Department, C. H. Lovern, in regard to defendant Johnson's qualifications and was advised that Johnson

" Exhibit E "

was a well-qualified, trained policeman and had done an excellent job as a policeman for the City of Grenada. Additionally, Mayor Gary Moore contacted Chief Lovern independently and was similarly advised by Chief Lovern. Neither Chief Steed nor Mayor Moore were advised by Lovern that Johnson had an alleged propensity for violence or maltreatment for persons under arrest as alleged in the Complaint filed herein.

(b) Several of the Aldermen knew the defendant Johnson personally as early as his high school days in the Winona Public School system and other Aldermen knew his parents and relatives. Also, Patrolman Johnson had been employed previously by the City of Winona Police Department before being employed by the City of Grenada Police Department. Several Aldermen had official and personal knowledge as to Johnson's prior work record with the City of Winona and his qualifications for the job of patrolman.

(c) Patrolman Johnson had on file his application for employment, which listed as references thereon Dr. Tom Dulin, Superintendent of the Winona Public Schools, and Mr. Billy Morgan, Patrolman with the Mississippi State Highway Patrol. These references were investigated and they resulted in defendant Johnson's receiving good recommendations. These references did not indicate in any way defendant Johnson's alleged propensities for violence and maltreatment of persons under arrest, as alleged in the Complaint.

(d) Defendant Johnson had previously attended the Police Academy in Jackson, Mississippi, and was a trained police officer with approximately three and one-half years prior law enforcement experience with the City of Winona and City of Grenada police departments. Further, Chief H. L. Steed, the then duly elected and acting Chief of Police of the City of Winona, Mississippi, did recommend defendant Johnson based upon Chief Steed's investigation of defendant Johnson's personal and professional qualifications for the job of police officer.

3. I was also a duly elected and acting member of the Board of Aldermen of the City of Winona, Mississippi, when defendant Marlow was hired as a policeman by said Board. Chief Steed conducted a similar investigation into the personal and professional qualification of defendant Marlow for the position of policeman and several of the Board members knew defendant Marlow or his family personally. The Board's investigation of defendant Marlow did not reveal that he had an alleged propensity for violence, nor a rumor thereof. The investigation did reveal that he was personally and professionally qualified for the job of policeman and based upon this investigation and upon the recommendation of Chief of Police H. L. Steed defendant Marlow was hired as a policeman. Subsequent to said hiring, defendant Marlow performed his duties well and no information or even rumors were received by the Board relative to any alleged propensity for violence or maltreatment of prisoners.

4. I had no knowledge of defendant Johnson's alleged propensities for violence as alleged in the Complaints nor had I heard rumors relative thereto at the aforesaid time

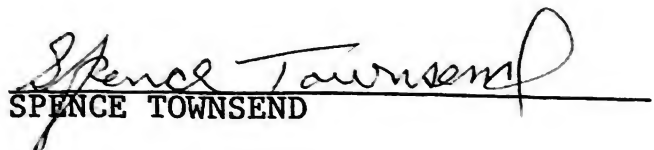
defendant Johnson was hired as a police officer nor at any time subsequent thereto, including the date of the alleged occurrence on October 9, 1976.

5. I was neither officially, nor personally, involved in the arrest of the plaintiff and the alleged altercations between plaintiff and defendants, Johnson and Marlow. Further, I neither directed defendants, Johnson and Marlow, to act in any fashion, nor did I know anything about the alleged occurrence until a time subsequent thereto.

6. I did not promote in any way a policy of the Board of Mayor and Aldermen which sanctioned, ratified or condoned the alleged misconduct and actions which allegedly caused a violation of plaintiff's constitutional rights as alleged in the Complaint.

7. The Board of Aldermen provided training for all of its policemen, including Policeman Johnson, at the Police Academy in Jackson, Mississippi, and supervised the actions of the Police Department by receiving periodic reports from the Chief of Police and by personal attention and investigation. The knowledge possessed by me relative to the Police Department never revealed any pattern of illegal activity by said Department which would have violated the constitutional rights of any individual. If a pattern of illegal activity by the Police Department had been discovered by me, I would have responded in some positive way to eliminate said activity.

Further, affiant saith not.

  
SPENCE TOWNSEND

SWORN TO AND SUBSCRIBED before me, this the 26th  
day of September, A.D., 1978.

Laurel G. Martin  
NOTARY PUBLIC

My commission expires:

MY COMMISSION EXPIRES MARCH 6, 1982

---



STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

AFFIDAVIT

Personally appeared before me, the undersigned authority of law in and for said State and County, the within named GARY MOORE, who, upon being duly sworn, saith:

1. I am one of the defendants in the above-styled and numbered cause and was the duly elected and acting Mayor of the City of Winona, Mississippi, on November 4, 1975, when defendant, John M. Johnson, was hired as a policeman with the City of Winona Police Department by a unanimous vote of the five-member Board of Mayor and Aldermen and was serving in said capacity on October 9, 1976, the date of the occurrence complained of.

2. Before the Board of Mayor and Aldermen voted to hire defendant Johnson in the aforesaid capacity, as it did for all applicants for police work, it undertook to investigate defendant Johnson's background and qualifications. The Board had substantial information relative to defendant Johnson's personal and professional background, which information included, but was not limited to, the following:

(a) The Board of Mayor and Aldermen requested the then Chief of Police of the City of Winona, H. L. Steed, to contact Johnson's then present employer, City of Grenada, Mississippi, Police Department. Consistent with said instructions, Chief Steed talked with the Chief of Police of the Grenada, Mississippi, Police Department, C. H. Lovern, in regard to defendant Johnson's qualifications and was advised that

"Exhibit F"

Johnson was a well-qualified, trained policeman and had done an excellent job as a policeman for the City of Grenada. Additionally, I contacted Chief Lovern independently and was similarly advised by Chief Lovern. Neither Chief Steed nor I were advised by Lovern that Johnson had an alleged propensity for violence or maltreatment for persons under arrest as alleged in the Complaint filed herein.

(b) Several of the Aldermen knew the defendant Johnson personally as early as his high school days in the Winona Public School system and other Aldermen knew his parents and relatives. Also, Patrolman Johnson had been employed previously by the City of Winona Police Department before being employed by the City of Grenada Police Department. Several Aldermen had official and personal knowledge as to Johnson's prior work record with the City of Winona and his qualifications for the job of patrolman.

(c) Patrolman Johnson had on file his application for employment, which listed as references thereon Dr. Tom Dulin, Superintendent of the Winona Public Schools, and Mr. Billy Morgan, Patrolman with the Mississippi State Highway Patrol. These references were investigated and they resulted in defendant Johnson's receiving good recommendations. These references did not indicate in any way defendant Johnson's alleged propensities for violence and maltreatment of persons under arrest, as alleged in the Complaint.

(d) Defendant Johnson had previously attended the Police Academy in Jackson, Mississippi, and was a trained police officer with approximately three and one-half years prior law enforcement experience with the City of Winona and City of Grenada police departments. Further, Chief H. L. Steed, the then duly elected and acting Chief of Police of the City of Winona, Mississippi, did recommend defendant Johnson based upon Chief Steed's investigation of defendant Johnson's personal and professional qualifications for the job of police officer.

3. I was also the duly elected and acting Mayor of the City of Winona, Mississippi, when defendant Marlow was hired as a policeman by said Board of Mayor and Aldermen. Chief Steed conducted a similar investigation into the personal and professional qualification of defendant Marlow for the position of policeman and several of the Board members knew defendant Marlow or his family personally. The Board's investigation of defendant Marlow did not reveal that he had an alleged propensity for violence, nor a rumor thereof. The investigation did reveal that he was personally and professionally qualified for the job of policeman and based upon this investigation and upon the recommendation of Chief of Police H. L. Steed defendant Marlow was hired as a policeman. Subsequent to said hiring, defendant Marlow performed his duties well and no information or even rumors were received by the Board relative to any alleged propensity for violence or maltreatment of prisoners.

4. I had no knowledge of defendant Johnson's alleged propensities for violence as alleged in the Complaints nor had I heard rumors relative thereto at the aforesaid time

defendant Johnson was hired as a police officer nor at any time subsequent thereto, including the date of the alleged occurrence on October 9, 1976.

5. I was neither officially, nor personally, involved in the arrest of the plaintiff and the alleged altercations between plaintiff and defendants, Johnson and Marlow. Further, I neither directed defendants, Johnson and Marlow, to act in any fashion, nor did I know anything about the alleged occurrence until a time subsequent thereto.

6. I did not promote in any way a policy of the Board of Mayor and Aldermen which sanctioned, ratified or condoned the alleged misconduct and actions which allegedly caused a violation of plaintiff's constitutional rights as alleged in the Complaint.

7. The Board of Mayor and Aldermen provided training for all of its policemen, including Policeman Johnson, at the Police Academy in Jackson, Mississippi, and supervised the actions of the Police Department by receiving periodic reports from the Chief of Police and by personal attention and investigation. The knowledge possessed by me relative to the Police Department never revealed any pattern of illegal activity by said Department which would have violated the constitutional rights of any individual. If a pattern of illegal activity by the Police Department had been discovered by me, I would have responded in some positive way to eliminate said activity.

Further, affiant saith not.

  
GARY MOORE

SWORN TO AND SUBSCRIBED before me, this the 26th  
day of September, A.D., 1978.

Ranella G. Martin  
NOTARY PUBLIC

My commission expires:

MY COMMISSION EXPIRES MARCH 6, 1982

CERTIFICATE OF SERVICE

I, Luther P. Crull, Jr., attorney of record for the defendants herein, do hereby certify that I have this day mailed, via United States Mail, postage prepaid, a true and correct copy of the above and foregoing Notice of Motion and Motion for Summary Judgment of Defendants, M. E. Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammond, Jr. and Spence Townsend, and for Partial Summary Judgment for Defendant, Gary Moore, unto Honorable Billy R. Gibson, attorney for the plaintiff herein, at his usual mailing address being P. O. Box 355, Bruce, Mississippi 38915.

This the 27<sup>th</sup> day of September, A.D., 1978.

  
LUTHER P. CRULL, JR.

**United States District Court**

FOR THE

NORTHERN DISTRICT OF MISSISSIPPI

Lonnie L. Blaylock

v.

John M. Johnson, et al

No. WC77-21-S

re  
TAKE NOTICE that the above-entitled case has been/set for pre-trial conference at  
2:30 p. m. , on Friday, November 17 , 1978 , at the United States  
Magistrate's Hearing Room, Second Floor, Federal Building, Oxford,  
Mississippi before U. S. Magistrate Charles M. Powers.

Date October 18 , 1978

NORMAN L. GILLESPIE

Clerk.

By Annie F. Leashore  
Annie F. Leashore Deputy Clerk. &  
Clerical Asst. to Mag. Charles M. Powers

To Hon. Billy R. Gibson, P. O. Box 335, Bruce, Mississippi 38915  
Hon. William Liston, P. O. Box 645, Winona, Mississippi 38967  
Jacket File

LANCASTER, ROBINSON, HAMMOND, JR. AND  
TOWNSEND)

**United States District Court**

FOR THE

NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISION

LONNIE L. BLAYLOCK

v.

JOHN M. JOHNSON, ETAL

No. WC 77-21-S-P

HEARING ON DEFTS. MOTION

TAKE NOTICE that the above-entitled case has been set for FOR SUMMARY JUDGMENT at

Oxford, MS , on October 30 , 19 78 , at 9:00 A.M. in the  
United States District Courtroom Number Two, Federal Building, before  
Judge Orma R. Smith.

Date Oxtober 20 , 19 78

.....NORMAN L. GILLESPIE.....  
Clerk.

By Margaret E. King  
Margaret E. King, Deputy Clerk.

To Hon. Billy R. Gibson, P. O. Box 355, Bruce, MS 38915  
Hon. William Liston, P. O. Box 645, Winona, MS 38967  
Hon. Robert Pedersen, Law Clerk, P. O. Box 1519, Corinth, MS 38834

IMPORTANT NOTICE: In order that overtime in the Marshal's Office may  
be kept to a minimum pursuant to Department of Justice Regulations, all  
subpoenas for witnesses must be delivered to the U. S. Marshal's Office  
at least three (3) working days prior to the date of hearing or trial.  
(Weekends and holidays are excluded.)



LANCASTER, ROBINSON, HAMMOND, JR. AND  
TOWNSEND)

**United States District Court**

FOR THE

NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISION

LONNIE L. BLAYLOCK

v.

JOHN M. JOHNSON, ETAL

No. WC 77-21-S-P

RESET HEARING ON DEFTS. MOTION  
TAKE NOTICE that the above-entitled case has been ~~set~~ for FOR SUMMARY JUDGMENT at

Oxford, MS, on November 3, 19 78, at 9:00 A.M. in the  
United States District Courtroom Number Two, Federal Building, before  
Judge Orma R. Smith.

Date October 25, 19 78

.....NORMAN L. GILLESPIE.....

Clerk.

By

*Margaret E. King*  
Margaret E. King,

Deputy Clerk.

To Hon. Billy R. Gibson, P. O. Box 355, Bruce, MS 38915  
Hon. William Liston, P. O. Box 645, Winona, MS 38967  
Hon. Robert Pedersen, Law Clerk, P. O. Box 1519, Corinth, MS 38834

\*\*\*\*PLEASE NOTE CHANGE IN DATE OF HEARING.

IMPORTANT NOTICE: In order that overtime in the Marshal's Office may  
be kept to a minimum pursuant to Department of Justice Regulations, all  
subpoenas for witnesses must be delivered to the U. S. Marshal's Office  
at least three (3) working days prior to the date of hearing or trial.  
(Weekends and holidays are excluded.)

UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK

NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION  
OXFORD, MISSISSIPPI  
October 31, 1978

NOTICE

LONNIE L. BLAYLOCK

V.

NO. WC 77-21-S-P

JOHN M. JOHNSON, ETAL

TAKE NOTICE that because of conflicts in the schedule of defendants' counsel the hearing on defendants' motion for summary judgment set for Friday, November 3, 1978 is hereby continued until further order of the court.

NORMAN L. GILLESPIE, CLERK)

BY:

*Margaret E. King*  
Deputy Clerk,

TO: Hon. Billy R. Gibson, P. O. Box 355, Bruce, MS 38915  
Hon. Luther Crull, P. O. Box 645, Winona, MS 38967  
Hon. Robert Pedersen, Law Clerk, P. O. Box 1519, Corinth, MS 38834

**United States District Court**

**FOR THE**

**NORTHERN DISTRICT OF MISSISSIPPI - WESTERN DIVISION**

LONNIE L. BLAYLOCK

v.

JOHN M. JOHNSON

No. WC 77-21-S-P

HEARING ON ABOVE-STATED  
MOTIONS

TAKE NOTICE that the above-entitled case has been set for at

Aberdeen, MS, on November 21, 1978, at 2:00 P.M. in the  
United States District Courtroom Number Two, Federal Building, before  
Judge Orma R. Smith.

Date November 8, 1978

NORMAN L. GILLESPIE

Clerk.

By

Margaret E. King  
Margaret E. King, Deputy Clerk.

To Hon. Billy R. Gibson, P. O. Box 355, Bruce, MS 38915  
Hon. William Liston, P. O. Box 645, Winona, MS 38967  
Hon. Robert Pedersen, Law Clerk, P. O. Box 1519, Corinth, MS 38834

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF MISSISSIPPI

POST OFFICE DRAWER 1519

CORINTH, MS. 38834

ORMA R. SMITH

JUDGE

November 13, 1978

Honorable Billy Gibson  
Post Office Box 355  
Bruce, MS 38915

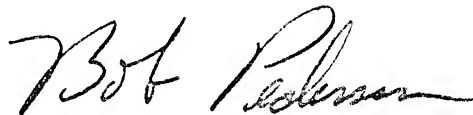
Re: Blaylock v. Johnson, et al, No. WC 77-21-S

Dear Mr. Gibson:

On September 28, 1978, the court received a copy of defendants' motion for summary judgment and a memorandum of authorities. Under Local Rule G-8(5), you had 10 days from date of receipt of defendants' memorandum to submit a reply memorandum. As of this date, the court has not received your memorandum.

A hearing on the motion is set for November 21, 1978. Prior to November 17, 1978, please submit plaintiff's reply memorandum to the court and serve a copy on opposing counsel.

Sincerely,



Robert H. Pedersen  
Law Clerk to Judge Smith

/ah

cc: Hon. William Liston, Box 645, Winona, MS 38967  
Mrs. Sherry Hunter, Deputy Clerk, U.S. District Court,  
Box 727, Oxford, MS 38655

RECEIVED

NOV 14 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VS.

NO. WC 77-21-S

JOHN M. JOHNSON, Individually, and as  
an Officer of the Winona, Mississippi  
Police Department; JOHN MARLOW,  
individually, and as an Officer of the  
Winona, Mississippi Police Department;  
GARY MOORE, Individually, and as Mayor  
of the City of Winona, Mississippi;  
M. E. DAVES, BILLY LANCASTER, HARRY LEE  
ROBINSON, EDWARD A. HAMMOND, JR., and  
SPENCE TOWNSEND, Individually, and as  
Board of Aldermen of the City of Winona,  
Mississippi

**FILED**

NOV 14 1978

NORMAN L. GILLESPIE, CLERK  
by *Z. Wallington*  
Deputy

DEFENDANTS

PLAINTIFF'S REQUEST FOR ADMISSION OF FACT

TO: HONORABLE LUTHER P. CRULL, JR.  
LISTON, CRULL, AND GIBSON  
P.O. BOX 645  
WINONA, MISSISSIPPI 38976

Plaintiff Lonnie L. Blaylock request the Defendants,  
for the purpose of this action only, and subject to all per-  
tinent objections to admissibility which may be interposed at  
pretrial conference or trial, the truth of the following facts:

-1-

That pursuant to agreement of counsel, counsel for  
the Plaintiff has been allowed to examine the Minute Books of  
the City of Winona, Mississippi, and the personnel files main-  
tained by the City of Winona, Mississippi, insofar as Defendants  
Johnson and Marlow are concerned.

(a) That said minute book does not indicate that any background  
investigation whatsoever was ever conducted on either officer,  
prior to their employment by the City of Winona.

(b) That the personnel files do not indicate that any references  
whatsoever were checked on either officer although references

were requested from the officers in their employment application forms.

(c) That although Defendant Johnson was previously employed by the Grenada Police Department, there was no record in his personnel file that Defendants Moore, Daves, Lancaster, Robinson, Hammond, and Townsend, acting either individually or as elected officials of the City of Winona, had ever requested any information from the City of Grenada or the Chief of Police of the City of Grenada at that time, as to Officer Johnson's record while employed there.

(d) That in fact Officer Johnson did act with impropriety on several occasions while employed by the Grenada Police Department and this information was in his file there, was known by the Chief of Police of the City of Grenada at that time, and this information was available to the City of Winona.

(e) That the personnel file on both Officers Johnson and Marlow indicate that neither were given any sort of psychological profile test to determine their suitability to serve in the capacity of armed police officers.

(f) That neither file on either officer indicates that a detailed employment record was secured on either and that previous employers were queried for indications of instability, uncontrollable temperament, or other indications of unsuitability to serve as armed police officers.

This the 13<sup>th</sup> day of November, A.D., 1978.

Gibson and Newlin  
Attorneys at Law  
P.O. Box 355  
Bruce, Ms. 38915

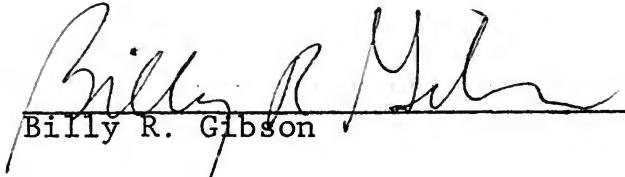
By: 

Billy R. Gibson  
Attorney for Plaintiff

CERTIFICATE OF MAILING

This is to certify that I, Billy R. Gibson, one of the attorneys for the Plaintiff, have this day delivered a true copy of the above and foregoing Plaintiff's Request for Admission of Facts to Honorable Luther P. Crull, Jr., Attorney for the Defendant, by depositing a true copy thereof in the United States Mail postage prepaid at his usual mailing address of Post Office Box 645, Winona, Mississippi 38967.

This the 13 day of November, A.D., 1978.

  
Billy R. Gibson

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VS.

NO. WC 77-21-S-P

JOHN M. JOHNSON, Individually, and as  
an Officer of the Winona, Mississippi,  
Police Department; JOHN MARLOW,  
Individually, and as an Officer of the  
Winona, Mississippi, Police Department;  
GARY MOORE, Individually, and as Mayor  
of the City of Winona, Mississippi;  
M. E. DAVES, BILLY LANCASTER, HARRY LEE  
ROBINSON, EDWARD A. HAMMOND, JR.,  
SPENCE TOWNSEND, Individually, and as  
Board of Aldermen of the City of Winona,  
Mississippi

*ORAL  
Argument  
Requested*

DEFENDANTS

NOTICE OF MOTION

**FILED**

TO: HONORABLE LUTHER P. CURLL, JR.  
128 North Quitman Avenue  
Winona, Mississippi 38967

NOV 17 1978

NORMAN L. GILLESPIE, CLERK

by *Sherry J. Hunter*  
Deputy

Attorney for Defendants

Please take notice that the attached Motion to Supplement  
on behalf of Plaintiff Lonnie L. Blaylock will be brought on for  
hearing before Honorable Orma Smith, United States District  
Judge, at such time and place as counsel can be heard.

*Billy R. Gibson*  
Billy R. Gibson  
P.O. Box 355  
Bruce, Mississippi 38915

Attorney for Plaintiff



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VS.

NO. WC 77-21-S

JOHN M. JOHNSON, Individually, and as  
an Officer of the Winona, Mississippi,  
Police Department; JOHN MARLOW,  
individually, and as an Officer of the  
Winona, Mississippi, Police Department;  
GARY MOORE, Individually, and as Mayor  
of the City of Winona, Mississippi;  
M. E. DAVES, BILLY LANCASTER, HARRY LEE  
ROBINSON, EDWARD A. HAMMOND, JR., and  
SPENCE TOWNSEND, Individually, and as  
Board of Aldermen of the City of Winona,  
Mississippi

**FILED**

NOV 17 1978

NORMAN L. GILLESPIE, CLERK

by.....

*Sherry J. Hunter*  
Deputy

DEFENDANTS

MOTION TO FILE SUPPLEMENTARY COMPLAINT

COMES NOW L. C. Blaylock and moves the Court to supplement  
the complaint filed by him herein, and in respect would show as  
follows, to-wit:

-1-

That since the filing of the original complaint here-  
in, the depravation of his rights by the Defendants has con-  
tinued in the following particulars:

- (a) On October 9, 1976, the Plaintiff was charged with the  
charge of Public Drunk by affidavit executed by the Defendant  
Johnson before Defendant Moore;
- (b) On October 13, 1976, and upon information and belief after  
consultation between all the Defendants, the Plaintiff was  
additionally charged with resisting arrest by affidavit executed  
by Defendant Johnson before Defendant Moore.
- (c) Plaintiff was tried before Defendant Moore in his capacity  
as City Judge on October 14, 1976, convicted on both charges,  
and immediately thereafter perfected an appeal to the Circuit

Court of Montgomery County.

(d) On April 20, 1977, upon information and belief, Plaintiff charges that the Defendants Moore, Daves, Lancaster, Robinson, Hammond, and Townsend attempted to prevent Plaintiff's appeal of said charges to the Circuit Court by authorizing the filing of a Motion to Dismiss said appeal. Plaintiff charges, upon information and belief, that all Defendants knew and approved of this attempt to circumvent Plaintiff's constitutional rights, or, alternatively, by the exercise of reasonable diligence should have known of this attempt.

(e) Defendant Moore testified on behalf of said Motion to Dismiss said appeal.

(f) The Circuit Court upheld said Motion to Dismiss.

(g) Plaintiff appealed to the Supreme Court of the State of Mississippi, which said appeal was resisted by authorization of said Defendants. Plaintiff charges, upon information and belief, that the Defendants either knew, or by the exercise of reasonable diligence should have known, that Plaintiff's constitutional rights were continuing to be deprived him.

(h) On the 8<sup>th</sup> day of November, A.D., 1978, the Supreme Court of the State of Mississippi reversed the ruling of the Circuit Court of Montgomery County, Mississippi, reinstating Plaintiff's appeal in the lower Court.

(i) Plaintiff respectfully shows that the basis of the Motion to Dismiss was that his appeal was not timely perfected although he contacted the Defendant Moore on several occasions to complete all actions necessary of him to perfect the appeal, but on said occasions the Defendant Moore advised him that he could not "find the papers" and that his appeal was in good standing. Notwithstanding this, the Defendant Moore appeared at the hearing on the Motion to Dismiss and testified on behalf of said Motion.

Plaintiff therefore says that he should be allowed to supplement his original complaint herein, setting forth the continuing conspiracy on the part of Defendants to deprive him of rights guaranteed him under the Constitution of the United States of America.

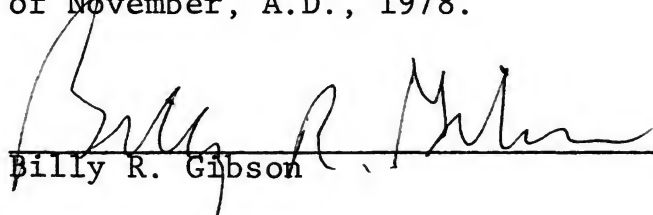
Respectfully submitted on this the 17 day of November, A.D., 1978.

  
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I, Billy R. Gibson, Attorney of Record for Plaintiff, do hereby certify that I have this day personally delivered a true and correct copy of the above and foregoing Notice of Motion Supplement and Motion to ~~file~~ unto Honorable Luther P. Crull, attorney for the Defendants herein, 128 NORTH QUITMAN AVE.  
WINONA, MS. 38567

This the 17th day of November, A.D., 1978.

  
Billy R. Gibson

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

LONNIE L. BLAYLOCK,

Plaintiff

v.

NO. WC 77-21-S

JOHN M. JOHNSON, et al,

Defendants

ORDER

The court having considered the motion for summary judgment filed herein by defendants and being of the opinion that the same is not well taken, it is

ORDERED AND ADJUDGED that the motion for summary judgment of defendants M. E. Daves, Billy Lancaster, Harry Lee Robinson, Edward A. Hammon, Jr., and Spence Townsend, and the partial summary judgment by defendant Gary Moore, shall be and the same hereby is overruled and denied.

This 21st day of November, 1978.

  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF MISSISSIPPI

POST OFFICE DRAWER 726

ABERDEEN, MISSISSIPPI 39730

CHARLES M. POWERS

UNITED STATES MAGISTRATE

November 21, 1978

Honorable Norman L. Gillespie  
Clerk of the U.S. District Court  
P.O. Box 727  
Oxford, MS 38655

Re: Lonnie Blaylock v.  
John M. Johnson, et al  
No. WC 77-21-S-P

Dear Norman:

Please find enclosed for the jacket file in the  
above-styled cause an Order which I have today signed.  
Copies are being sent to the persons listed below.

Sincerely,

Charles M. Powers  
United States Magistrate

CMP/dcm

Enclosure

cc: Honorable Orma R. Smith, United States District Judge,  
P.O. Box 704, Aberdeen, MS 39730  
Honorable Billy R. Gibson, P.O. Box 355, Bruce, MS 38915  
Honorable William Liston, P.O. Box 645, Winona, MS 38967

RECEIVED

NOV 22 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF MISSISSIPPI

POST OFFICE DRAWER 1519

CORINTH, MS. 38834

November 21, 1978

ORMA R. SMITH

JUDGE

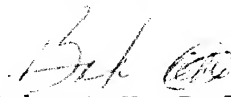
Honorable Norman L. Gillespie  
Clerk of the Court  
U. S. District Court  
P. O. Box 727  
Oxford, MS 38655

Re: Blaylock v. Johnson, et al, No. WC 77-21-S

Dear Norman:

Enclosed for the jacket file is an order dated as above, signed by Judge Smith. Copies are being sent to those persons listed below.

Sincerely,



Robert H. Pedersen  
Law Clerk to Judge Smith

/ah  
enclosure

cc: Hon. Luther P. Crull, Box 645, Winona, MS 38967  
Hon. Billy R. Gibson, Box 355, Bruce, MS 38915  
Ms. Margaret King, Courtroom Deputy, U. S. District  
Court, Box 727, Oxford, MS 38655

RECEIVED

NOV 27 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

**United States District Court**

NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

OXFORD, MISSISSIPPI

November 27, 1978

LONNIE L. BLAYLOCK

V

NO. WC77-21-S-P

JOHN M. JOHNSON, ET AL

TAKE NOTICE that Order signed by Judge Smith on 11/21/78, denying motion for summary judgment on defts. Daves, Lancaster, Robinson, Hammon, Jr. & Townsend, and denying partial summary judgment on debt. Moore, has been entered in Civil Order Book # 30, page 186.

NORMAN L. GILLESPIE, CLERK

By:

*Sherry J. Hunter*  
Deputy Clerk

Sherry J. Hunter

Hon. Luther P. Crull

Hon. Billy R. Gibson

**United States District Court**

FOR THE

NORTHERN DISTRICT OF MISSISSIPPI

Lonnie L. Blaylock

v.

John M. Johnson

No. WC77-21-S

re

TAKE NOTICE that the above-entitled case has been/set for pre-trial conference at 11:00 A. M. , on Friday, January 19 , 1979 , at the United States Magistrate's Hearing Room, Second Floor, Federal Building, Oxford, Mississippi before U. S. Magistrate Charles M. Powers.

Date November 30 , 1979

NORMAN L. GILLESPIE

Clerk.

By Annie F. Leashore

Annie F. Leashore

Deputy Clerk. &amp;

Clerical Asst. to Mag. Charles M. Powers

To Hon. Billy R. Gibson, P. O. Box 335, Bruce, Mississippi 38915  
Hon. William Liston, P. O. Box 645, Winona, Mississippi 38967  
Jacket File



374-915



NA 14070 (9-12)

GIBSON & NEWLIN  
COUNSELORS AT LAW  
SOUTH NEWBURGER STREET  
BRUCE, MISSISSIPPI 38915

BILLY R. GIBSON  
DONALD F. NEWLIN

November 28, 1978

*Motion  
not signed*

Honorable Charles M. Powers  
United States Magistrate  
United States District Court  
Aberdeen, Mississippi 39730

Re: Blaylock vs. Johnson et al  
Cause No. WC 77-21-S

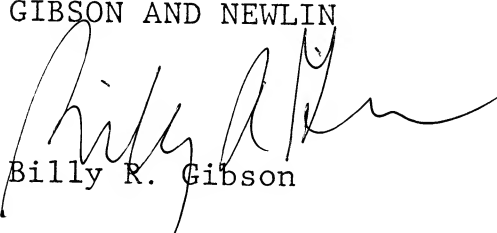
Dear Magistrate Powers,

Enclosed please find copy of Motion For Enlargement Of Time To File Supplementary Complaint which I have this day forwarded to the District Clerk at Oxford. I am also enclosing herewith an Order for your consideration if you find merit in the Motion.

Thanking you, I remain

Sincerely yours,

GIBSON AND NEWLIN

  
Billy R. Gibson

BRG...efr

enclosure

cc: Honorable Orma R. Smith  
Honorable Luther P. Crull, Jr.  
Ms. Jan Estes

RECEIVED

NOV 30 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. Gibson

DATE: 11/30/78

RECEIVED

FROM : *ijt* Sherry J. Hunter, Deputy Clerk

DEC 4 1978

SUBJECT: WC77-21-S-P Blaylock vs. Johnson, et al

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

Please sign the original motion to enlarge time to file supplemental pleadings and certificate and return to me as soon as possible.

Thank you.

*Thanks for your help Sherry*  
*RCH*



5010-109

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF MISSISSIPPI

POST OFFICE DRAWER 726

ABERDEEN, MISSISSIPPI 39730

CHARLES M. POWERS

MAGISTRATE

December 11, 1978

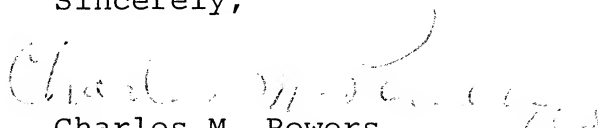
Honorable Norman L. Gillespie  
Clerk of the U.S. District Court  
P.O. Box 727  
Oxford, MS 38655

Re: Lonnie L. Blaylock v.  
John M. Johnson, et al  
No. WC 77-21-S-P

Dear Norman:

Please find enclosed for the jacket file in the  
above-styled cause an Order which I have today signed.  
Copies are being sent to the persons listed below.

Sincerely,

  
Charles M. Powers  
United States Magistrate

CMP/dcm

Enclosure

cc: Honorable Orma R. Smith, United States District Judge,  
P.O. Box 727, Oxford, MS 38655  
Honorable Billy R. Gibson, P.O. Box 355, Bruce, MS 38915  
Honorable William Liston, P.O. Box 645, Winona, MS 38967

RECEIVED

DEC 14 1978

**LISTON, CRULL & GIBSON**

ATTORNEYS AT LAW

128 NORTH QUITMAN AVENUE

P. O. BOX 645

WINONA, MISSISSIPPI 38967

TELEPHONE 601 283-2132

WILLIAM LISTON  
LUTHER P. CRULL, JR.  
HUGH GIBSON

ALAN D. LANCASTER

December 18, 1978

EUPORA OFFICE:  
P. O. DRAWER G  
EUPORA, MISSISSIPPI 38744  
TELE. 601 258-7855

GRENADA OFFICE:  
P. O. BOX 656  
GRENADA, MISSISSIPPI 38901  
TELE. 601 226-2424

Ms. Jan Estes, Deputy Clerk  
United States District Court  
P. O. Box 727  
Oxford, Mississippi 38655

RE: Lonnie L. Blaylock vs. John M. Johnson, et al  
U.S.D.C., N.D. Miss. - Cause No. WW77-21-S

Dear Jan:

Please find enclosed herewith the original and one copy of the Defendants' Response to Request for Admissions which I ask that you docket and file in the above-styled and numbered cause.

Consistent with the Certificate of Service, I have this date forwarded a true and correct copy of said pleading to Honorable Billy Gibson, attorney for plaintiff.

Sincerely yours,

LISTON, CRULL & GIBSON

By:   
Luther P. Crull, Jr.

LPCjr/lm

Enclosures

CC Honorable Billy R. Gibson  
P. O. Box 355  
Bruce, Mississippi 38915

**RECEIVED**

DEC 19 1978

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

# United States District Court

FOR THE

NORTHERN DISTRICT OF MISSISSIPPI

Lonnie L. Blaylock

v.

John M. Johnson, et al

No. WC77-21-S

re

TAKE NOTICE that the above-entitled case has been/set for pre-trial conference at 10:00 a.m. , on Friday, March 30 , 1979 , at the United States Magistrate's Hearing Room, Second Floor, Federal Building, Oxford, Mississippi before U. S. Magistrate Charles M. Powers.

Date January 16 , 1979

NORMAN L GILLESPIE

Clerk.

By Annie F. Leashore

Deputy Clerk. &

Clerical Asst. to Mag. Charles M. Powers

To Hon. Billy R. Gibson, P. O. 335, Bruce, MS 38915  
Hon. William Liston, P. O. Box 645, Winona, MS 38967  
Jacket File

RECEIVED

JAN 18 1979

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

Civil Minutes - General

Case No. WC77-21-S

Place Held Oxford

Style Lonnie L. Blaylock v John M. Johnson, et al

Date & Time Begun 3/30/79 10am

Date & Time Ended 3/30/79 10:55am

Total Time 55 minutes

PRESENT:

Honorable CHARLES M. POWERS

Magistrate

Annie F. Leashore

Deputy Clerk

Court Reporter

Attorneys present for plaintiffs:

Hon. Billy R. Gibson  
P. O. Box 355  
Bruce, MS 38915

Attorneys present for Defendants:

Hon. Luther P. Crull, Jr.  
P. O. Box 645  
Winona, MS 38967

**FILED**

MAR 30 1979

NORMAN L. GILLESPIE, CLERK

By: Sherry J. Hunter  
Deputy

PROCEEDINGS: Conference

Estimated length of trial--2 days

Docket Entry: pre-trial conference held; final order due 4/13/79; proposed jury instructions to be submitted 7 days prior to trial.

NORMAN L. GILLESPIE, Clerk

By: Annie F. Leashore  
Deputy Clerk



UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF MISSISSIPPI

POST OFFICE DRAWER 1519

CORINTH, MS. 38834

July 2, 1979

ORMA R. SMITH

JUDGE

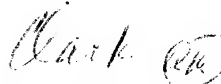
Honorable Norman L. Gillespie, Clerk  
United States District Court  
Post Office Box 727  
Oxford, MS 38655

Re: Blaylock v. City of Winona,  
NO. WC 77-21-S

Dear Norman:

Enclosed for the jacket file is an order dated  
as above, signed by Judge Smith. Copies are being  
sent to those persons listed below.

Sincerely,



W. Clark Goodwin  
Law Clerk to Judge Smith

/ah  
enclosure

cc: Hon. William Liston, Box 846, Winona, MS 38967  
Hon. Billy R. Gibson, Box 355, Bruce, MS 38915  
Ms. Margaret King, Courtroom Deputy, U.S. District  
Court, Box 727, Oxford, MS 38655

RECEIVED

JUL 3 1979

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

WESTERN DIVISION

LONNIE L. BLAYLOCK

PLAINTIFF

VERSUS

NO. WC77-21-S

JOHN M. JOHNSON, Individually, and  
as an Officer of the Winona,  
Mississippi Police Department;  
JOHN MARLOW, Individually and as  
an Officer of the Winona, Mississippi,  
Police Department; GARY MOORE,  
Individually and as Mayor of the City  
of Winona, Mississippi; M. E. DAVES,  
BILLY LANCASTER, HARRY LEE ROBINSON,  
EDWARD A. HAMMOND, JR. and SPENCE  
TOWNSEND, Individually and as Board  
of Aldermen of the City of Winona,  
Mississippi

DEFENDANTS

ORDER OF DISMISSAL WITH PREJUDICE

This day came on to be heard on the Motion of the plaintiff, Lonnie L. Blaylock, by and through his attorney of record, to voluntarily dismiss the above-styled and numbered cause with prejudice, and the Court after having been advised that the defendants have no objection to the same and after having maturely considered this matter, finds that said Motion is well taken and should be sustained.

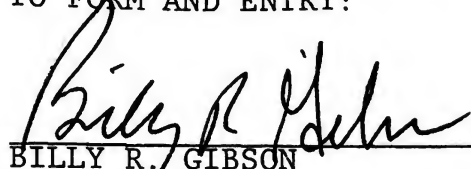
IT IS, THEREFORE, HEREBY ORDERED AND ADJUDGED that the above-styled and numbered cause be and the same is hereby dismissed with prejudice as to the plaintiff, Lonnie L. Blaylock.

SO ORDERED AND ADJUDGED this the 2 day of

July, A.D., 1979.

Donna R. Smith  
UNITED STATES DISTRICT JUDGE

APPROVED AND AGREED AS  
TO FORM AND ENTRY:



BILLY R. GIBSON  
ATTORNEY FOR PLAINTIFF



LUTHER P. CRULL, JR.  
ATTORNEY FOR DEFENDANTS

United States District Court  
NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION  
OXFORD, MISSISSIPPI  
July 3, 1979

LONNIE L. BLAYLOCK

V

NO. WC77-21-S-P

JOHN M. JOHNSON, ET AL

TAKE NOTICE that ORDER OF DISMISSAL WITH PREJUDICE signed by Judge Smith on 07/02/79 has been entered in Civil Order Book # 31, pages 238-239.

NORMAN L. GILLESPIE, CLERK

By:

*Sherry J. Hunter*  
Deputy Clerk

*Sherry J. Hunter*

Hon. William Liston  
Hon. Billy R. Gibson





IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

VERSUS

HERBERT MCNEER

PLAINTIFF

NO. 6176

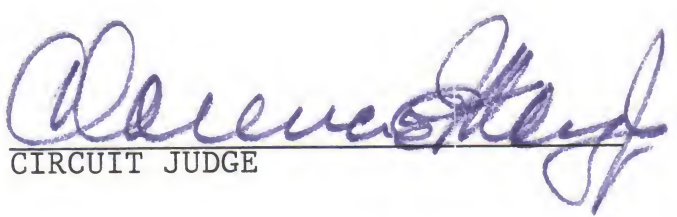
DEFENDANT

ORDER

This day came on to be heard on motion of the defendant, by and through his attorney of record, for a continuance of the hearing on the motion to dismiss appeal and awarding of writ of procedendo filed herein by the plaintiff, and the Court being advised that the defendant and a vital witness to be called by the defendant at the hearing of this matter <sup>avg</sup> ~~is~~ in the hospital, and after having maturely considered the same finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the hearing on the motion to dismiss appeal and award of writ of procedendo be, and the same is hereby, continued until 1:00 o'clock P.M. on Monday, October 10, 1977, at the courtroom of the Montgomery County Courthouse in Winona, Mississippi.

SO ORDERED ADN ADJUDGED on this the 20<sup>th</sup> day of April, A.D., 1977.

  
CIRCUIT JUDGE

**FILED**  
APR 20 1977

Mae E. Mortimer  
MRS. MAE MORTIMER  
CIRCUIT CLERK

by Dina Ryals, W.C.

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

PLAINTIFF

VERSUS

NO. 6176

HERBERT McNEER

DEFENDANT

ORDER

This day came on to be heard on the motion of the City of Winona, plaintiff in the above-styled and numbered cause, to dismiss appeal and award a Writ of Procedendo and the Court, after determining that the defendant appeared personally and with counsel and after having heard proof in Open Court, argument of counsel, and after having maturely considered the same, finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the appeal in the above-styled and numbered cause be, and the same is hereby, dismissed and a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, advising that the appeal herein has been dismissed and authorizing it to proceed with the execution of the sentence of said Municipal Court.

SO ORDERED AND ADJUDGED In Term on this the 13<sup>th</sup> day of October, A.D., 1977.

  
CIRCUIT JUDGE

**FILED**

OCT 13 1977

*Mae E. Mortimer*  
MRS. MAE MORTIMER

CIRCUIT CLERK

STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

WRIT OF PROCEDENDO

TO THE SHERIFF OF MONTGOMERY COUNTY, MISSISSIPPI:

WHEREAS, on the 10th day of October, A.D., 1977, the Circuit Court of Montgomery County, Mississippi, did sustain a motion to dismiss appeal in that certain cause styled "City of Winona, Plaintiff, Versus Herbert McNeer, Defendant", being Cause No. 6176 before the Circuit Court of Montgomery County, Mississippi, and ordered therein that a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, authorizing it to proceed with the execution of the sentence of said Municipal Court. Therefore, you are hereby commanded to serve this Writ upon Honorable John Emmett Ellis, Jr., Police Justice of the Municipal Court of the City of Winona, Mississippi, advising him that the appeal by Herbert McNeer from the conviction of the misdemeanor crime of public drunk before the Municipal Court of the City of Winona, Mississippi, on October 14, 1976, has been dismissed and authorizing him to proceed with the execution of the sentence of said Municipal Court.

WITNESS the hand of the Clerk of the Circuit Court of Montgomery County, Mississippi, on this the 13<sup>th</sup> day of October, A.D., 1977.

Mae E. Mortimer  
MAE MORTIMER, CIRCUIT CLERK

**FILED**  
OCT 17 1977  
Mae E. Mortimer  
MRS. MAE MORTIMER  
CIRCUIT CLERK



IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

PLAINTIFF

VERSUS

CAUSE NO. 6176

LONNIE BLAYLOCK *et al*

DEFENDANT 6177  
6178

MOTION TO DISMISS

Comes now the alleged Defendant in the above styled and numbered cause, by and through his attorneys, Gibson and Newlin, and respectfully moves the Court to vacate the Order entered under the above styled and numbered cause the 13th day of October 1977 and to dismiss this cause; and would show in support thereof as follows:

There <sup>validly</sup> is no such cause as the above styled and numbered cause on the docket of the Circuit Court of Montgomery County, Mississippi.

Respectfully submitted,

GIBSON & NEWLIN

BY: *[Signature]*

CERTIFICATE

I, BILLY R. GIBSON, Attorney for the Appellant, Lonnie Blaylock, do certify that I have delivered a true and correct copy of the above and foregoing Motion to the Honorable LUTHER P. CRULL, JR., Attorney at Law, P.O. Box 645, Winona, Mississippi 38976 by personally delivering same to him.

This the 20<sup>th</sup> day of October 1977.

*[Signature]*  
BILLY R. GIBSON

**FILED**

OCT 20 1977

*Mae E. Mortimer*  
MRS. MAE E. MORTIMER  
CIRCUIT CLERK

*[Signature]* D. C.

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

APPELLEE

VS.

NO. 6176

HERBERT McNEER

APPELLANT

MOTION FOR REHEARING ON MOTION TO DISMISS; TO VACATE PREVIOUS ORDER; AND FOR OTHER RELIEF

Comes now, BILLY R. Gibson, one of the attorneys of record for Appellant, HERBERT McNEER, in the above styled and numbered cause, which was an Appellate case from the Municipal Court of the City of Winona, Montgomery County, Mississippi, in order to review the decision rendered therein and in support respectfully shows as follows, to-wit:

- (a) The Circuit Court erred in holding that a good and sufficient bond had not been approved by the Municipal Judge on October 22, 1976.
- (b) The Circuit Judge erred in not holding that HERBERT McNEER AND LONNIE BLAYLOCK served as sureties for each other.
- (c) The Circuit Judge erred in not holding that a Surety Bond signed by the Respondent personally, even without any other surety, if approved by the Municipal Judge was sufficient.
- (d) The Circuit Judge erred in holding that an Appellant Bond which is secured by the signature of the Appellant, HERBERT McNEER, and further by the signature of LONNIE BLAYLOCK and in addition thereto was secured by a cash sum held on deposit deemed sufficient by the Municipal Judge was, in fact, valid.
- (e) The Court erred in holding that the Municipal Judge does not have authority in his own Court, a Constitutional Court, to approve Appellant's bonds and the surety therefor.



(f) The Court erred in not allowing the Appeal inasmuch as all proof showed that HERBERT McNEER intended to perfect an Appeal, took all action thought by him necessary to perfect an Appeal as advised by the Municipal Judge, and that the said HERBERT McNEER relied fully on said advice, and took all action recommended to him by said Municipal Judge.

(g) That other causes to be shown at the hearing hereon.

WHEREFORE, premises considered, Movant HERBERT McNEER Prays that the Court will reopen and reconsider the Motion to Dismiss previously filed and ruled on herein and upon the conclusion of argument will vacate its former Order and reinstate Appellant HERBERT McNEER Appeal. Alternatively, Appellant HERBERT McNEER moves that he be allowed to appeal this decision to the Supreme Court of the State of Mississippi upon his making a sufficient cost bond, if required, and that the Writ of Procedendo ordered by the Court will be held in abeyance pending the outcome of said Appeal, upon, the said HERBERT McNEER making a bond in a sum to be approved by the Court.

RESPECTFULLY SUBMITTED on this the 20<sup>th</sup> day of October, A.D., 1977.

HERBERT McNEER

BY:

Billy R. Gibson  
BILLY R. GIBSON

ATTORNEY FOR APPELLANT

**FILED**

OCT 20 1977

Mae E. Mortimer

MAE E. MORTIMER  
CIRCUIT CLERK

Dina Regals D. C.

CERTIFICATE

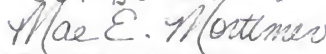
I, BILLY R. GIBSON, Attorney for the Appellant, HERBERT McNEER, do hereby certify that I have delivered a true and correct copy of the above and foregoing Motion to the Honorable LUTHER P. CRULL, JR., Attorney at Law, P.O. Box No. 645, Winona, Mississippi, 38976, Attorney for the City of Winona.

This the 20<sup>th</sup> day of October, A.D., 1977.

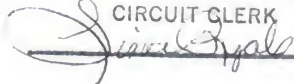
  
BILLY R. GIBSON

**FILED**

OCT 20 1977

  
MRS. MAE E. MORTIMER

CIRCUIT CLERK

 D. C.



IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, STATE OF MISSISSIPPI

CITY OF WINONA

APPELLEE

VS.

NO. 6176

HERBERT McNEER

APPELLANT

O R D E R

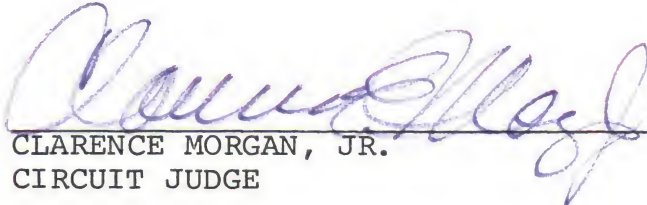
This day the above styled and numbered cause came on for hearing upon the Defendant's Motion to Dismiss and Motion for Rehearing on Motion to Dismiss; to vacate previous Order; and for other Relief. The Court, having heard argument of counsel and being fully advised in the premises and after giving due consideration to said Motions, finds that said Motions are not well taken and should be overruled.

The Court further finds that said Defendant should be granted leave of this Court in order to perfect his Appeal to the Supreme Court. The Court further finds that said Defendant should enter into a Cost Bond in the sum of \$500.00 and that said Appeal is allowed without the necessity of entering into any Appearance Bond. Further, the Court finds that while said Appeal is pending the previous Order of this Court awarding a Writ of Procedendo shall be held in abeyance.

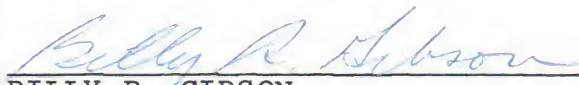
IT IS, THEREFORE, ORDERED AND ADJUDGED that said Motions are overruled; that leave of Court is hereby granted in order that said Defendant may perfect his Appeal; that he shall enter into a Cost Bond in the amount of \$500.00 for said Appeal; and that the Writ of Procendendo previously issued under authority of this Court is hereby held in abeyance for the duration of said Appeal.

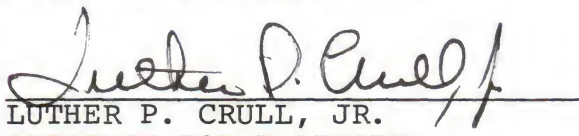
**FILED**  
NOV 14 1977  
*Mae Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK

SO ORDERED AND ADJUDGED this the 28th Day of  
October, A.D., 1977.

  
CLARENCE MORGAN, JR.  
CIRCUIT JUDGE

APPROVED AS TO FORM:

  
BILLY R. GIBSON  
ATTORNEY FOR DEFENDANT

  
LUTHER P. CRULL, JR.  
ATTORNEY FOR PLAINTIFF

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI  
REGULAR APRIL, 1979, TERM

CITY OF WINONA

PLAINTIFF

VS.

NO. 6176

HERBERT McNEER

DEFENDANT

ORDER CONTINUING CAUSE

THIS DAY this Cause came on to be heard upon Motion of the Defendant, by and through his Attorney of Record, for a continuance in this Cause, and the City of Winona being present, and represented by its Counsel of Record, and offering no objection, it is:

ORDERED

That this Cause is continued until the next regular term of this Court.

So ordered and adjudged on this the 18 day of April, A.D., 1979.

*Niles McNeil*  
CIRCUIT JUDGE

**FILED**

APR 18 1979

*Mae E. Mortimer*  
MRS. MAE E. MORTIMER  
CIRCUIT CLERK

*Dina Ryals* D. C.

CITY OF WINONA  
~~STATE OF MISSISSIPPI~~

VS.

NO. 6176

JUDGMENT

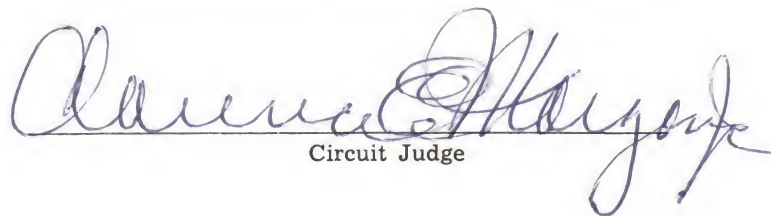
HERBERT MCNEER

This day into open Court came the District Attorney who prosecutes for the State of Mississippi and came also HERBERT MCNEER in his own proper person and represented by counsel and was lawfully arraigned upon an affidavit charging the said defendant with the misdemeanor of PUBLIC DRUNK, to which he entered a plea of guilty.

Therefore, for said offence and on said plea of guilty it is by the Court ORDERED and ADJUDGED that the said HERBERT MCNEER

be and he is hereby sentenced to ~~serve a term of~~ 30 days in the County Jail and ~~pay a fine of \$100.00 and all costs of Court, and the said defendant is now remanded into the custody of the Sheriff until said fine and costs are paid and said days are served.~~

So Ordered and Adjudged in open Court, this the 15th day of OCTOBER, 1979.

  
Circuit Judge



RULE 39. Except in cases involving capital punishment, within thirty (30) days after receipt by the Circuit Clerk of a Mandate from this Court affirming a judgment or dismissing an appeal in a criminal case, the Circuit Clerk shall notify the Clerk of the Supreme Court in writing whether the judgment has been executed, and if so, in what manner. In any case where the judgment has not been executed the Clerk of this Court shall promptly notify in writing the Chief Justice and the Attorney General.

STATE OF MISSISSIPPI

To the Honorable the \_\_\_\_\_ Circuit \_\_\_\_\_ Court,  
of \_\_\_\_\_ Montgomery \_\_\_\_\_ County—Greetings:

WHEREAS, on the 8th day of November, 19 78 (the same being a day of  
the regular term of our SUPREME COURT, begun and held in the Court room, in the Capitol, in the City of Jack-  
son, in said State, on the 2nd Monday of September, in the year of our Lord, 19 78, the  
following final Judgment was rendered by our SUPREME COURT, to-wit:

HERBERT McNEER AND LONNIE BLALOCK, SR.

No. 50,751 vs.

CITY OF WINONA

This cause having been submitted at a former day of this Term  
on the record herein from the Circuit Court of Montgomery County and  
this Court having sufficiently examined and considered the same and  
being of the opinion that there is error therein doth order and adjudge  
that the Judgment of said Circuit Court rendered in this cause on the  
28th day of October, 1977-be and the same is hereby reversed and re-  
manded. It is further ordered and adjudged that the County of  
Montgomery do pay all of the costs of this appeal to be taxed.

**FILED**

NOV 28 1978

*Mae E. Mortimer*  
MRS. MAE E. MORTIMER  
CIRCUIT CLERK

\_\_\_\_\_ D. C.

YOU ARE THEREFORE HEREBY COMMANDED, That such execution and further proceedings be had in said  
cause, as according to right and justice, and the judgement of our SUPREME COURT and the law of the land  
ought to be had.

WITNESS, the Hon. Neville Patterson  
Chief Justice of our Supreme Court; also the signature of the Clerk and  
the Seal of said Court hereunto affixed, at office, at Jackson, this the

27th day of November, A. D., 19 78  
Julia H. Kendrick, Clerk  
By \_\_\_\_\_, D. C.

8930

IN THE SUPREME COURT OF MISSISSIPPI

NO. 50,751

HERBERT McNEER AND  
LONNIE BLALOCK, SR.

v.

THE CITY OF WINONA

NOT DESIGNATED FOR PUBLICATION

COURT FROM WHICH APPEALED: CIRCUIT COURT,  
MONTGOMERY COUNTY

TRIAL JUDGE: HON. CLARENCE E. MORGAN, JR.

ATTORNEYS: FOR APPELLANTS:  
Donald F. Newlin  
P. O. Box 355  
Bruce, MS 38915

FOR APPELLEE:  
Luther P. Crull, Jr.  
128 North Quitman Avenue  
Winona, MS 38967

CHARGE AND SENTENCE: HERBERT McNEER  
(Public Drunkenness -  
Fine of \$50.00)

LONNIE BLALOCK, SR.  
(Public Drunkenness and  
Resisting Arrest -  
Fine of \$100.00)

DISPOSITION: REVERSED AND REMANDED

BEFORE ROBERTSON, P.J., WALKER AND BROOM, JJ.,  
AND BIGGERS, COMMISSIONER

NEAL B. BIGGERS, COMMISSIONER FOR THE COURT:<sup>1</sup>

The record in this case shows that the municipal judge intended that the case be appealed from his court to the circuit court by the signing of the appeal bond by the appellants and the deposit with the court of cash as security, pending sureties signatures later replacing the cash deposit. While the judge did not formally write the word "approved"

---

<sup>1</sup>Sitting pursuant to Chapter 430, Laws of 1976. The above opinion is adopted as the opinion of the Court.



on the bonds until more than the statutory maximum time had passed within which to perfect an appeal to circuit court, he did write on the bonds at the time the appellants signed them and left their cash with the court, that the cases were "appealed to circuit court." It is clear from the record that a good faith effort to appeal was made by appellants with the aid of the mayor's court judge and, therefore, in accordance with the principles set forth in Wallace v. State, 149 Miss. 198, 115 So. 342 (1928), the ruling of the circuit court denying the appeal should be and the same is hereby reversed, and this cause remanded.

REVERSED AND REMANDED.

PATTERSON, C.J., SMITH, P.J., ROBERTSON, P.J.,  
SUGG, WALKER, BROOM, LEE, BOWLING AND COFER, JJ.,  
CONCUR.

STATE OF MISSISSIPPI  
HINDS COUNTY

I, Mrs. Julia H. Kendrick, Clerk of the Supreme Court of the State of Mississippi, do hereby certify that the foregoing is a true and correct copy of the opinion delivered by the Court in the cause therein stated, as the same appears of record on file in my office.

Given under my hand, with the seal of said Court affixed,  
at office, in the City of Jackson, Miss., this the 27th  
day of November A. D., 1978.

Julia H. Kendrick  
Clerk Supreme Court.



Montgomery County

# SUPREME COURT OF MISSISSIPPI

## STATEMENT OF DEBT, DAMAGES AND APPEAL COSTS

Return This Statement With Remittance

Herbert McNeer

From Circuit Court

Montgomery County

No. 50751 V

City of Winona

Sureties

Red. + Res. 11.8

1978

|   |   |                                  |         |
|---|---|----------------------------------|---------|
| Filing                                      | Paper                                       | Code, Sec. 3929 (a)              | 8.75    |
| Entering                                    | Appearances                                 | Code, Sec. 3929 (b)              | 75      |
| Docketing on Gen. Docket and Indexing       | Code, Sec. 3929 (e)                         | 1.50                             |         |
| Docketing on Dist. or Criminal Docket       | Code, Sec. 3929 (f)                         | 75                               |         |
| Orders of Court                             | Code, Sec. 3929 (c)                         | 50                               |         |
| Filing and Docketing Motion                 | Code, Sec. 3929 (d)                         |                                  |         |
| Writ  | Code, Sec. 3929 (g)                         |                                  |         |
| Copy of Opinion                             | { TO ACCOMPANY MANDATE<br>STATUTORY PRICE } | Code, Sec. 3929 (p)              | 1.00    |
| Final                                       |   | Code, Sec. 3929 (h), (i) & (j)   | 1.50    |
| Certifying same to lower court              | Code, Sec. 3929 (k)                         | 1.25                             |         |
| Marking, Boxing and Indexing Papers         | Code, Sec. 3929 (o)                         | 50                               |         |
| Taxing Costs and Copy                       | Code, Sec. 3929 (l)                         | 50                               |         |
| Issuing Execution                           | Code, Sec. 3929 (g)                         |                                  |         |
| Recording Return                            | Code, Sec. 3929 (s)                         |                                  |         |
| Preparing Record for Bindery                | Code, Sec. 3929 (t) & Sec. 3934 (t)         | 50                               |         |
| Supreme Court Clerk's Cost                  |   | 17.50                            |         |
| For Transcript of Record                    | Mae E. Mortimer                             |                                  |         |
| Words at                                    | per 100                                     | Sec. 3934 Code 1942 or Laws 1948 | 27.00 x |
| For Stenographic Notes                      |   |                                  |         |
| Words at 10c per 100                        | Sec. 1640 Code 1942                         |                                  | 54.00   |
| For Binding Transcript                      | Sec. 3929 (r)                               |                                  | 2.00 x  |
| Citation to Supreme Court                   | Sec. 3934 Code 1942 (b)                     |                                  | 1.50 x  |
| Certificate                                 | Sec. 3934 Code 1942 (t)                     |                                  |         |
| Taking and approving bond                   | Sec. 3934 Code 1942 (f)                     |                                  |         |
| Taxing costs                                | Sec. 3934 Code 1942 (z)                     |                                  | 2.58 x  |
| Express or postage paid                     |   |                                  |         |
| Serving Summons in Appeal by                |   |                                  |         |
| Sheriff of                                  | County Code, Sec. 3936 (c), (f) & (g)       |                                  |         |
| Serving                                     | By  |                                  |         |
| Lower Court Clerk's and Stenographers Costs |   |                                  | 87.08   |
| Total Cost                                  |   |                                  | 104.58  |

Principal Debt \$

Damages being 5 per centum of Debt

Interest on \$ at per annum from till paid

The above is a true statement.

Julia H. Kendrick, Clerk.

By, D. C.

Mandates will not be issued till appeal costs shall have been paid. Code 1942, Sec. 1990

Receipt of Clerks and Sheriffs for the part of appeal cost due them may be sent instead of money.

If Costs are not paid within thirty days, execution will be issued.

Paid 12/12/78  
ck # 454

ck # 456  
Pd Bonnie Jacey

ck # 457  
Pd. Mae Mortimer  
3/1/08

Paid By  
Mont Co # 4258  
12/12/78



STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

WRIT OF PROCEDENDO

TO THE SHERIFF OF MONTGOMERY COUNTY, MISSISSIPPI:

WHEREAS, on the 10th day of October, A.D., 1977, the Circuit Court of Montgomery County, Mississippi, did sustain a motion to dismiss appeal in that certain cause styled "City of Winona, Plaintiff, Versus Herbert McNeer, Defendant", being Cause No. 6176 before the Circuit Court of Montgomery County, Mississippi, and ordered therein that a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, authorizing it to proceed with the execution of the sentence of said Municipal Court. Therefore, you are hereby commanded to serve this Writ upon Honorable John Emmett Ellis, Jr., Police Justice of the Municipal Court of the City of Winona, Mississippi, advising him that the appeal by Herbert McNeer from the conviction of the misdemeanor crime of public drunk before the Municipal Court of the City of Winona, Mississippi, on October 14, 1976, has been dismissed and authorizing him to proceed with the execution of the sentence of said Municipal Court.

WITNESS the hand of the Clerk of the Circuit Court of Montgomery County, Mississippi, on this the 13<sup>th</sup> day of October, A.D., 1977.

Mae E. Mortimer  
MAE MORTIMER, CIRCUIT CLERK

POLICE REPORTName Hubert McNEER w/m DOB 2-22-38Address WINONA MS.Date 10-8-76 Time 1:30 A.M.

Nature of Complaint Subject was out side of ElCERO's  
CAFE in vehicle belonging to Lonnie  
Blaylock. Subject stepped out of vehicle  
& Staggered. Subject Smelled of Liquor  
& Had ~~St~~ Slurred Speech.

FILED

MAR 23 1977

Max E. Mortimer

MR. MAX E. MORTIMER

CIRCUIT CLERK

D. C.

2t Johnson & Ptn Marlow

Police on Duty



# AFFIDAVIT

STATE OF MISSISSIPPI,

CITY OF WINONA  
MONTGOMERY COUNTY

Before me Gary Moore Mayor of City of Winona, Mississippi,  
of the County and State aforesaid Johanson  
makes affidavit that Herbert McNeer on or about the 9 day of  
oct 1976 in the County and State aforesaid, and in said City of Winona, Mississippi  
did then and there, wilfully and unlawfully public drunk in  
Violation Miss Code 1972 0197-27-47

By consent of the court this charge  
has been appealed to Circuit Court  
of Montgomery County Miss.  
This the 22nd of  
october 1976  
Gary Moore  
against the peace and dignity of the State of Mississippi.

Sworn to and subscribed before me, this the

9

day of

october

1976

Gary Moore  
Mayor of City of Winona, Mississippi

~~Paid \$ 50.00 10/14/76 Gur~~



N<sup>o</sup> 009

# MAYOR'S DOCKET

CRIMINAL CASES

CITY OF WINONA, MISS.

City of Winona

Case No. 17

vs.

Defendant charged with

Hubert McNear

Public Drunk

Affidavit made by Johnson - Mailer

10-8 19 76

Kind of Process

When Issued

When Returnable

To Whom Directed

Witnesses for Plaintiff

Witnesses for Defense

Officers Return

on \_\_\_\_\_  
I have this day  
EXECUTED  
the within writ by arresting the  
defendant and bringing him into  
Court, this the \_\_\_\_\_  
day of \_\_\_\_\_ 19 \_\_\_\_\_

Attorney for Prosecution

Attorney for Defendant

Chief of Police.

## DECISION OF COURT

**FILED**

MAR 23 1977

*Mae E. Mortimer*

MRS. MAE E. MORTIMER

CIRCUIT CLERK

*Anna Ryals*

This day this cause came on for hearing and the defendant Hubert

D.C. McNear on being arraigned pleaded

guilty to the charge preferred against him, to wit, Public Drunk

and the court having duly considered the matter

It is hereby ordered that said defendant be and is sentenced to pay a fine of \$ 50.00

and said defendant having paid said fine it is further ordered that he go hence without

further delay. Ordered, adjudged and decreed this the 14 day of Oct, 19 76

*Gary Moore*

Mayor

Received

\$50.00

on

10-15-76

(Amount)

(Date)

Other Disposition

Fine of \$50.00 returned to  
defendant. Charge appealed to Circuit Court.

Paperwork sent to Circuit Clerk  
5-23-77



IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA  
VERSUS  
HERBERT MCNEER

PLAINTIFF  
NO. 6176  
DEFENDANT

MOTION TO DISMISS APPEAL  
AND  
AWARD OF A WRIT OF PROCEDENDO

Comes now City of Winona, plaintiff in the above-styled and numbered cause, and respectfully moves the Court to dismiss the appeal and award a writ of procedendo, and in support thereof would respectfully show unto the Court the following facts, to-wit:

I

The defendant, Herbert McNeer, was on the 14th day of October, A.D., 1976, convicted of the misdemeanor crime of public drunk in the Municipal Court of the City of Winona, Mississippi, and was sentenced to pay a fine of \$50.00.

II

That the defendant failed to properly perfect his appeal to this Honorable Court pursuant to the terms and provisions of Miss. Code, 1972, Ann., §§99-35-1 and 99-35-3, in that the Bond to Appeal before this Court on the second Monday of April, A.D., 1977, was not executed by sufficient resident sureties within forty (40) days from the said date of conviction.

WHEREFORE, PREMISES CONSIDERED, the City of Winona respectfully moves the Court to enter its Order dismissing the appeal filed herein and awarding a writ of procedendo notifying the Municipal Court of the City of Winona that the appeal has been dismissed and authorizing it to proceed with the execution of the sentence of said Municipal Court.

Respectfully submitted:

*Luther P. Crull, Jr.*  
LUTHER P. CRULL, JR.  
CITY PROSECUTOR FOR THE CITY  
OF WINONA, MISSISSIPPI

**FILED**

APR 20 1977

*Mae E. Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK

*by Vera Ryals, W.C.*

CERTIFICATE OF SERVICE

I, Luther P. Crull, Jr., City Prosecutor for the City of Winona, Mississippi, do hereby certify that I have this day mailed, via United States Mail, postage prepaid, a true and correct copy of the above and foregoing Motion to Dismiss Appeal and Award of a Writ of Procedendo unto Honorable Billy R. Gibson, attorney for the defendant herein, at his usual mailing address being P. O. Box 355, Bruce, Mississippi 38915.

This the 20<sup>th</sup> day of April, A.D., 1977.

Luther P. Crull, Jr.  
LUTHER P. CRULL, JR.

**FILED**  
APR 20, 1977  
*Mae E. Mortimer*  
**MRS. MAE MORTIMER**  
CIRCUIT CLERK  
*by Dina Ryals, n.c.*

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

VERSUS

HERBERT MCNEER

PLAINTIFF

NO. 6176

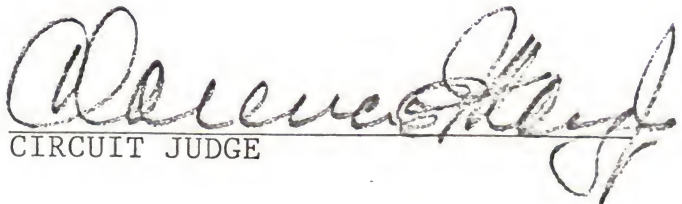
DEFENDANT

ORDER

This day came on to be heard on motion of the defendant, by and through his attorney of record, for a continuance of the hearing on the motion to dismiss appeal and awarding of writ of procedendo filed herein by the plaintiff, and the Court being advised that the defendant and a vital witness to be called by the defendant at the hearing of this matter <sup>was</sup> ~~is~~ in the hospital, and after having maturely considered the same finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the hearing on the motion to dismiss appeal and award of writ of procedendo be, and the same is hereby, continued until 1:00 o'clock P.M. on Monday, October 10, 1977, at the courtroom of the Montgomery County Courthouse in Winona, Mississippi.

SO ORDERED AND ADJUDGED on this the 20<sup>th</sup> day of April, A.D., 1977.

  
CIRCUIT JUDGE

A CERTIFIED TRUE COPY  
*Mae E. Mortimer*  
CIRCUIT CLERK  
*by Dina Ryals, n.c.*

**FILED**  
APR 20 1977  
*Mae E. Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK  
*by Dina Ryals, n.c.*



IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

VERSUS

HERBERT McNEER

PLAINTIFF

NO. 6176

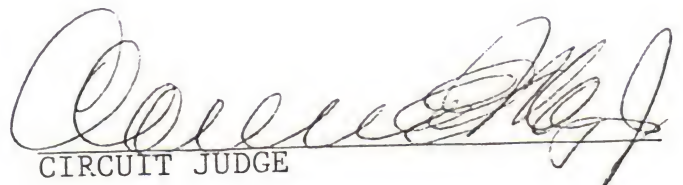
DEFENDANT

ORDER

This day came on to be heard on the motion of the City of Winona, plaintiff in the above-styled and numbered cause, to dismiss appeal and award a Writ of Procedendo and the Court, after determining that the defendant appeared personally and with counsel and after having heard proof in Open Court, argument of counsel, and after having maturely considered the same, finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the appeal in the above-styled and numbered cause be, and the same is hereby, dismissed and a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, advising that the appeal herein has been dismissed and authorizing it to proceed with the execution of the sentence of said Municipal Court.

SO ORDERED AND ADJUDGED In Term on this the 13<sup>th</sup> day of October, A.D., 1977.

  
CIRCUIT JUDGE

**FILED**

OCT 13 1977

*Mae E. Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK

A CERTIFIED TRUE COPY  
*Mae E. Mortimer*  
CIRCUIT CLERK

*by Bina Ryals, n.c.*



Original to  
Mae Mortimer  
10-28-77

# BOND TO APPEAR

STATE OF MISSISSIPPI,  
Montgomery County.

We Herbert McNew + Lennie Blaylock principal and

and \_\_\_\_\_ sureties, agree to pay the State of Mississippi the sum of 300<sup>00</sup> dollars, unless the said Herbert McNew + Lennie Blaylock shall appear before the undersigned, a ~~Justice~~ Circuit Court of the Peace in Beat No. \_\_\_\_\_ of said County, on the 2nd Monday day of April 19 77, to answer a charge of Public Drunk + Resist arrest and there to remain from day to day and term to term unless discharged by law.

Witness our hand, the 25 day of October, 19 76.

Herbert L. McNew  
Lennie L. Blaylock  
Gary McNew  
Approved \_\_\_\_\_ the 25 day of October 19 76.  
Mayor Justice of the Peace

FILED

## OATH OF SURETIES

MAR 23 1977  
Mae E. Mortimer  
MRS. MAE E. MORTIMER  
CIRCUIT CLERK  
Lena Ryals D. C.

STATE OF MISSISSIPPI,  
Montgomery County.

Before me, Gary McNew a Justice of the Peace Beat No. \_\_\_\_\_ in the County and State aforesaid city of Uniona and made oath that they are worth in visible property unincumbered 300<sup>00</sup> dollars.

Gary McNew  
Sworn to and subscribed before me, this the 25th day of October 19 76.  
Mayor Justice of the Peace



STATE OF MISSISSIPPI

COUNTY OF MONTGOMERY

I, Mrs. Mae Mortimer, Circuit Clerk in and for said County and State do hereby certify that the above and foregoing 85 pages in the cause styled STATE OF MISSISSIPPI VS. HERBERT MCNEER & LONNIE BLAYLOCK, NOS. 6176, 6177, & 6178 on the docket of the Circuit Court of said County, is a full, true and correct transcript of said cause with a copy of transcript on file in my office.

I further certify that I have this day forwarded, postage perpaid, said transcript to Mrs. Julia H. Kendrick, Supreme Court Clerk, Jackson, Mississippi.

Witness My signature, this the \_\_\_\_\_ day of February, 1978.

\_\_\_\_\_  
MRS. MAE MORTIMER,  
CIRCUIT CLERK

COST BILL

IN ACCOUNT WITH:

Mrs. Mae Mortimer, Circuit Clerk

To transcribing 10,800 words in above cause  
@ 25¢ per 100 words

27.00

Binding fee

2.00

Clerk's certificate to transcript

1.50

~~Mrs. Bonnie R. Gary,~~  
Official Court Reporter's Cost Bill

\$54.00

\$84.50

Postage

No part of which has been paid.

This \_\_\_\_\_ day of February, 1978.

\_\_\_\_\_  
CIRCUIT CLERK



C E R T I F I C A T E

I, the undersigned BILLY R. GIBSON, of Counsel for the Appellants LONNIE BLAYLOCK and HERBERT McNEER do hereby certify that I have served MRS. BONNIE GARY and MRS. PAULINE (JACK) BRUNT, one of which was the official Court Reporter in this cause, the above and foregoing Notice to Preserve and Transcribe Notes and Designation of Records, by mailing to each of them at their usual mailing address, postage prepaid, the original Notices.

I further certify that I have served the Circuit Clerk of Montgomery County at the Montgomery County Courthouse, Winona, Mississippi, a true and correct copy of said Notice by mailing same to him at his official office, postage prepaid.

I further certify that I have this day served the Appellees' attorney of record, HONORABLE LUTHER P. CRULL, JR., P.O. Box 645, Winona, Mississippi 38967 a true and correct copy of the above and foregoing Notice by mailing to him at his usual post office address.

I do hereby certify that all of the above Notices to all of the above stated parties were mailed as specified above on the 22nd. day of November, A.D., 1977.

  
BILLY R. GIBSON

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, STATE OF MISSISSIPPI

HERBERT MCNEER

APPELLANT

VS

CAUSE NO. 6176

CITY OF WINONA

APPELLEE

LONNIE BLAYLOCK

APPELLANT

VS

CAUSE NO. 6177

CITY OF WINONA

APPELLEE

LONNIE BLAYLOCK

APPELLANT

VS

CAUSE NO. 6178

CITY OF WINONA

APPELLEE

NOTICE TO PRESERVE AND TRANSCRIBE NOTES AND DISIGNATION  
OF RECORD

TO: Mrs. Bonnie Gary  
P.O. Box 504  
Eupora, MS. 39744

Mrs. Pauline (Jack) Brunt  
Kosciusko, Mississippi 39090

Dear Madams:

On October 10, 1977, during the October, 1977 term of the Circuit Court of Montgomery County, Mississippi, the above styled causes came on for a hearing upon Motion to Dismiss of the City of Winona. Said Motion was sustained. Upon Appellants' own Motions to Dismiss and Motions for Rehearing, this matter was set for a hearing in vacation on October 28, 1977, at Louisville, Mississippi. These latter two motions in each cause number were overruled and an Order was duly filed on November 14, 1977.

As I am uncertain as to which Court Reporter took the notes at said hearing in question, I am taking the liberty of

notifying both of you <sup>that</sup> by Appellants LONNIE BLAYLOCK AND HERBERT MCNEER desire to appeal the decision of this Court dismissing their appeal from Justice Court in each of said causes. We request a copy of all notes taken at the hearing be preserved and transcribed in the above styled and numbered causes and that upon completion of the transcript it be filed with the Clerk of the Circuit Court of Montgomery County, Winona, Mississippi as provided by law.

Appellants specifically designate the following portions of the record to be contained on appeal:

1. All documents certified to the Circuit Court by the Justice Court under said cause numbers except for copies of any process which may be omitted, but specifically including the appeal bonds executed by Appellants;
2. All testimony of witnesses, all exhibits, if any, introduced into evidence, and all other evidence adduced during the hearing on City of Winona's Motion to Dismiss on October 10, 1977; and
3. All Orders, Motions, and other rulings entered subsequent to said hearing.

(Appellant would suggest that the documents indexed in this record from the three causes be co-mingled in chronological order.)

This the 22nd day of November, A.D., 1977.

GIBSON AND NEWLIN

BY: Billy R. Gibson

BILLY R. GIBSON



STATE OF MISSISSIPPI }  
MONTGOMERY COUNTY } IN CIRCUIT COURT

THE STATE OF MISSISSIPPI

No

Case No. 6177

## VERSUS

VERSOS

Lommi Blylock

Sentenced the \_\_\_\_\_ day of \_\_\_\_\_

| FEES OF  |                          | Clerk           | Sherrif |
|--|--------------------------|-----------------|---------|
| (Miss. Code 1942, Sec. 3934, Rev. 1948 as Amended)   |                          |                 |         |
| (a) For docketing cause  | \$1 00                   | 3 00            |         |
| (b) For each writ other than subpoens  | 1 50                     | 1 50            |         |
| (c) Arraigning prisoner and entering plea  | 75c                      |                 |         |
| (d) Taking recognizance on bond  | 1 00                     |                 |         |
| (e) Entering surrender of prisoner by bail   | 25c                      |                 |         |
| (f) Swearing and impaneling jury   | 50c                      |                 |         |
| (g) Entering verdict of judgment   | 50c                      |                 |         |
| (h) Swearing each witness  | 10c                      | 50              |         |
| (i) For each subpoena with one name  | 1 00                     | 1 00            |         |
| (j) Each additional name inserted  | 10c                      |                 |         |
| (k) Each motion and order thereon  | 1 00                     | 3 00            |         |
| (l) Special venire in capital case   | 1 00                     |                 |         |
| (m) All copies of papers, for every hundred words  | 25c                      |                 |         |
| (n) Filing and marking each paper not otherwise provided for   | 10c                      | 70              |         |
| (o) Issuing each certificate to witness  | 25c                      |                 |         |
| (p) Recording each indictment  | 1 00                     |                 |         |
| Affidavit  | 50c                      | 50              |         |
| (q) Taxing costs   | 50c                      | 50              |         |
| (r) Filing instructions in criminal case   | 1 00                     |                 |         |
| (s) Certified copy of sentence   | 1 50                     |                 |         |
| Recording return on writ   | 25c                      | 25              |         |
| Entering each continuance  | 50c                      | 1 00            |         |
| Total  |                          | 11 95           |         |
| Jury Tax   |                          |                 |         |
| Stenographer's Fee   |                          |                 |         |
| Fees of County Attorney  |                          |                 |         |
| Fine (see judgment of Court, Minute Book page )  |                          |                 |         |
| Total  |                          |                 |         |
| COSTS IN JUSTICE OF PEACE COURT  |                          |                 |         |
| (For items and references to law authorizing same, see Justice Bill of Costs which is made a part hereof.) |                          |                 |         |
| Fees of  | J. P.                    |                 |         |
| Fees of  | Constable                |                 |         |
| Fees of  | Sheriff (in J. P. Court) |                 |         |
| Total amount due jurors in J. P. Court   |                          |                 |         |
| Total fees of witnesses for the State of Mississippi in J. P. Court  |                          |                 |         |
| Total fees of witnesses for defendant in J. P. Court   |                          |                 |         |
| Total costs in J. P. Court   |                          |                 |         |
| FEES OF Billy Carroll  |                          |                 |         |
| (Miss. Code 1942, Sec. 3936 Rev. 1950 as Amended)  |                          |                 |         |
| C Serving capias on defendant  | \$1-50                   |                 |         |
| F Entering writ in officer   | @ 25c                    |                 |         |
| G Returning Writ   | @ 25c                    |                 |         |
| H Taking ball bond   | @ 50c                    |                 |         |
| I Summoning witness  | @ 50c                    |                 |         |
| L Taking bond other than bail bond   | @ 50c                    |                 |         |
| M Impaneling jury  | @ 20c                    |                 |         |
| N Executing special venire facias on juror   | @ 10c                    |                 |         |
| O Serving scire facias on defendant (not excused juror)  | @ 1 50                   |                 |         |
| P Serving persons with summons or citation not herein provided for   | @ 50c                    |                 |         |
| Q Serving Capias pro finem on defendant and commitment   | @ 1 50                   |                 |         |
| R Serving attachment for contempt and return   | @ 1 50                   |                 |         |
| T Summoning jury on any inquisition in the county, attending, taking inquest                               | @ 5 00                   |                 |         |
| U Attending prisoner on habeas corpus trial  | @ 5 00                   |                 |         |
| V commitment (not elsewhere charged)   | @ 1 00                   |                 |         |
| Victualing prisoner  | @                        |                 |         |
| Conveying Criminal to jail   | Miles @ 10c per mile     |                 |         |
| Total  |                          |                 |         |
| FEES OF OTHER SHERIFFS OR OFFICERS   |                          |                 |         |
| Total  |                          |                 |         |
| (For fees of witnesses in Circuit Court and references to law authorizing same, see Code of 1942.)         |                          |                 |         |
| Fees of  | RECAPITULATION           |                 |         |
| Jury tax   | W. E. Mortimer           | Clerk           | 11 50   |
| Total costs in J. P. Court   |                          |                 |         |
| Fees of  | Billy Carroll            | Sheriff         | 2 00    |
| Fees of  |                          | County Attorney |         |
| Fees of Stenographer   |                          |                 |         |
| Total fees of witnesses for the State in Circuit Court   |                          |                 |         |
| Total fees of witnesses for defendant in Circuit Court   |                          |                 |         |
| Total Costs  |                          |                 |         |
| Fine   |                          |                 |         |
| GRAND TOTAL  |                          |                 |         |

NAMES AND FEES OF WITNESSES IN CIRCUIT COURT  
(See Mississippi Code, 1942)

| WITNESSES FOR THE STATE |    |    |    | WITNESSES FOR DEFENDANT |    |    |    |
|-------------------------|----|----|----|-------------------------|----|----|----|
|                         | d. | m. | \$ |                         | d. | m. | \$ |
|                         | d. | m. |    |                         | d. | m. |    |
|                         | d. | m. |    |                         | d. | m. |    |
|                         | d. | m. |    |                         | d. | m. |    |
|                         | d. | m. |    |                         | d. | m. |    |
|                         | d. | m. |    |                         | d. | m. |    |
|                         | d. | m. |    |                         | d. | m. |    |
|                         | d. | m. |    |                         | d. | m. |    |
|                         | d. | m. |    |                         | d. | m. |    |
| Total for State         |    |    | \$ | Total for Defendant     |    |    | \$ |

I certify that the foregoing is a true Bill of Costs and statement of Fines in the above styled case, this the 14th  
day of October, A. D., 1972

By Mae E. Mortimer, Circuit Clerk  
Jina Regals, Deputy Clerk

\$ \_\_\_\_\_ Received of \_\_\_\_\_ the sum of \_\_\_\_\_ Dollars, in full payment of the fine and all costs in the above styled case. This the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19 \_\_\_\_\_

\_\_\_\_\_, Circuit Clerk  
By \_\_\_\_\_, D.

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA  
VERSUS  
LONNIE BLAYLOCK

PLAINTIFF  
NO. 6177  
DEFENDANT

ORDER

This day came on to be heard on motion of the defendant, by and through his attorney of record, for a continuance of the hearing on the motion to dismiss appeal and awarding of writ of procedendo filed herein by the plaintiff, and the Court being advised that the defendant and a vital witness <sup>ave</sup> ~~is~~ in the hospital, and after having maturely considered the same finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the hearing on the motion to dismiss appeal and award of writ of procedendo be, and the same is hereby, continued until 1:00 o'clock P.M. on Monday, October 10, 1977, at the courtroom of the Montgomery County Courthouse in Winona, Mississippi.

SO ORDERED ADN ADJUDGED on this the 20<sup>th</sup> day of April, A.D., 1977.

  
CIRCUIT JUDGE

**FILED**  
APR 20 1977  
Mae E. Mortimer  
MRS. MAE MORTIMER  
CIRCUIT CLERK

by Tina Ryals, D.C.



STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

WRIT OF PROCEDENDO

TO THE SHERIFF OF MONTGOMERY COUNTY, MISSISSIPPI:

WHEREAS, on the 10th day of October, A.D., 1977, the Circuit Court of Montgomery County, Mississippi, did sustain a motion to dismiss appeal in that certain cause styled "City of Winona, Plaintiff, Versus Lonnie Blaylock, Defendant", being Cause No. 6177 before the Circuit Court of Montgomery County, Mississippi, and ordered therein that a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, authorizing it to proceed with the execution of the sentence of said Municipal Court. Therefore, you are hereby commanded to serve this Writ upon Honorable John Emmett Ellis, Jr., Police Justice of the Municipal Court of the City of Winona, Mississippi, advising him that the appeal by Lonnie Blaylock from the conviction of the misdemeanor crime of public drunk before the Municipal Court of the City of Winona, Mississippi, on October 14, 1976, has been dismissed and authorizing him to proceed with the execution of the sentence of said Municipal Court.

WITNESS the hand of the Clerk of the Circuit Court of Montgomery County, Mississippi, on this the 13<sup>th</sup> day of October, A.D., 1977.

Mae E. Mortimer  
MAE MORTIMER, CIRCUIT CLERK

**FULLER**  
OCT 17 1977  
Mae E. Mortimer  
MRS. MAE MORTIMER  
CIRCUIT CLERK

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

PLAINTIFF

VERSUS

NO. 6177

LONNIE BLAYLOCK

DEFENDANT

ORDER

This day came on to be heard on the motion of the City of Winona, plaintiff in the above-styled and numbered cause, to dismiss appeal and award a Writ of Procedendo and the Court, after determining that the defendant appeared personally and with counsel and after having heard proof in Open Court, argument of counsel, and after having maturely considered the same, finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the appeal in the above-styled and numbered cause be, and the same is hereby, dismissed and a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, advising that the appeal herein has been dismissed and authorizing it to proceed with the execution of the sentence of said Municipal Court.

SO ORDERED AND ADJUDGED In Term on this the 13<sup>th</sup> day of October, A.D., 1977.

  
CIRCUIT JUDGE

**FILED**  
OCT 13 1977  
*Mae E. Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK



IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

APPELLEE

VS.

NO. 6177

LONNIE BLAYLOCK

APPELLANT

MOTION FOR REHEARING ON MOTION TO DISMISS; TO VACATE PREVIOUS ORDER; AND FOR OTHER RELIEF

Comes now, BILLY R. GIBSON, one of the attorneys of record for Appellant, LONNIE BLAYLOCK, in the above styled and numbered cause, which was an appellate case from the Municipal Court of the City of Winona, Montgomery County, Mississippi, in order to review the decision rendered therein and in support respectfully shows as follows, to-wit:

- (a) The Circuit Court erred in holding that a good and sufficient bond had not been approved by the Municipal Judge on October 22, 1976.
- (b) The Circuit Judge erred in not holding that LONNIE BLAYLOCK AND HERBERT McNEER served as sureties for each other.
- (c) The Circuit Judge erred in not holding that a Surety Bond signed by the Respondent personally, even without any other surety, if approved by the Municipal Judge was sufficient.
- (d) The Circuit Judge erred in holding that an Appellant Bond which is secured by the signature of the Appellant, LONNIE BLAYLOCK, and further by the signature of HERBERT L. McNEER and in addition thereto was secured by a cash sum held on deposit deemed sufficient by the Municipal Judge was, in fact, valid.
- (e) The Court erred in holding that the Municipal Judge does not have authority in his own Court, a Constitutional Court,

to approve Appellant's Bonds and the surety therefor.

(f) The Court erred in not allowing the Appeal inasmuch as all proof showed that LONNIE L. BLAYLOCK intended to perfect an Appeal, took all action thought by him necessary to perfect an Appeal as advised by the Municipal Judge, and that the said LONNIE BLAYLOCK relied fully on said advice, and took all action recommended to him by said Municipal Judge.

(g) That other causes to be shown at the hearing hereon.

WHEREFORE, premises considered, Movant, LONNIE BLAYLOCK, prays that the Court will reopen and reconsider the Motion to Dismiss previously filed and ruled on herein and upon the conclusion of argument will vacate its former Order and reinstate Appellant LONNIE BLAYLOCK'S Appeal. Alternatively, Appellant LONNIE BLAYLOCK moves that he be allowed to appeal this decision to the Supreme Court of the State of Mississippi upon his making a sufficient cost bond, if required, and that the Writ of Procedendo ordered by the Court will be held in abeyance pending the outcome of said Appeal, upon, the said LONNIE BLAYLOCK making a bond in a sum to be approved by the Court.

RESPECTFULLY SUBMITTED on this the 20<sup>th</sup> day of October, A.D., 1977.

LONNIE BLAYLOCK

BY:

Billy R. Gibson  
BILLY R. GIBSON  
ATTORNEY FOR APPELLANT

FILED

OCT 20 1977

Mae E. Mortimer

MAE E. MORTIMER  
CIRCUIT CLERK

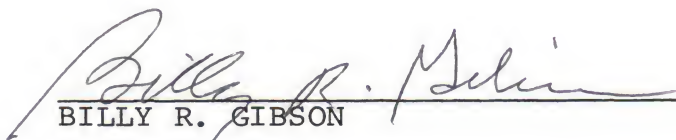
Dena D. Ryals D. C.



CERTIFICATE

I, BILLY R. GIBSON, Attorney for the Appellant, LONNIE BLAYLOCK, do hereby certify that I have delivered a true and correct copy of the above and foregoing Motion to the Honorable LUTHER P. CRULL, JR., Attorney at Law, P.O. Box 645, Winona, Mississippi 38976, Attorney for the City of Winona.

This the 20<sup>th</sup> day of October, A.D., 1977.

  
BILLY R. GIBSON

**FILED**

OCT 20 1977

*Mae E. Mortimer*

MRS. MAE E. MORTIMER

CIRCUIT CLERK

*Dina Ryals* D. C.

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

APPELLEE

VS.

NO. 6176,  
NO. 6177,  
and No. 6178


LONNIE BLAYLOCK, ET AL

APPELLANT

ORDER SETTING MOTION FOR HEARING

Now on this day this cause came on to be heard before the Court upon the Motion of Appellants LONNIE BLAYLOCK and HERBERT McNEER by and through their Attorney of Record, BILLY R. GIBSON, praying for a setting on said Motions and the Court, being fully advised in the premise does now set said Motions down to be heard at 1:00 o'clock P. M. on the 20<sup>th</sup> day of October, A.D., 1977 at the Courthouse in the City of Louisville, Winston County, Mississippi.

ALL OF WHICH IS ORDERED AND ADJUDGED this the 21<sup>st</sup> day of October, A.D., 1977.

  
CIRCUIT JUDGE

**FILED**

OCT 21 1977  
*Mae E. Mortimer*  
MONTGOMERY COUNTY CLERK  
D. G.

# SUBPOENA

THE STATE OF MISSISSIPPI,  
Montgomery County

#6177

TO THE SHERIFF OF MONTGOMERY COUNTY — GREETINGS:

You are commanded to summon

*Gary Moore*

if to be found in your county, to be and personally appear before the Judge of our Circuit Court next to be holden in and for said county of Montgomery at the Court House thereof in the town of Winona, on the SECOND Monday *October*, 19 *77*, on the *1st* day *1 P.M.* of said term and remain from day to day and from term to term, and not to depart hence until released by due course of law, to give evidence in a certain cause in said court pending, wherein

*City of Winona*  
*Lomuel Blaylock*

is plaintiff

is defendant, on the part of

*Plaintiff*

and this he shall by no means omit, under penalty and forfeiture of One Hundred Dollars, as well as the consequences.

Herein fail not, and have then and there this writ.

WITNESS my hand and seal of said court this

*7th*

day of

*October*

A. D.,

19 *77*

*Mac E. Montmeri*

Clerk

By

D. C.



# SUBPOENA

THE STATE OF MISSISSIPPI,  
Montgomery County

#6177

TO THE SHERIFF OF MONTGOMERY COUNTY — GREETINGS:

You are commanded to summon

*Harvey Putman*

if to be found in your county, to be and personally appear before the Judge of our Circuit Court next to be holden in and for said county of Montgomery at the Court House thereof in the town of Winona, on the SECOND Monday *October*, 19 *77*, on the *1st* day *10 a.m.* of said term and remain from day to day and from term to term, and not to depart hence until released by due course of law, to give evidence in a certain cause in said court pending, wherein

*City of Winona*  
*Lemuel Blylock*

is plaintiff

is defendant, on the part of

*Plaintiff*

and this he shall by no means omit, under penalty and forfeiture of One Hundred Dollars, as well as the consequences.

Herein fail not, and have then and there this writ.

WITNESS my hand and seal of said court this

*7th*

day of

*October*

A. D., 19 *77*

*Mac E. Mortimer*

Clerk

By

D. C.

**Request for Subpoenas**

---

Date October 10, 1977

Lonnie Blaylock  
Plaintiff

vs. No.

City of Winona  
Defendant

Please issue Subpoenas for the below listed witnesses to appear in Circuit-County Court  
at 1:00 o'clock P.M. on 10th the 10th day of Oct. A.D. 1977,  
to testify in behalf of plaintiff-defendant. Cypellate

Name

Address

MR. GARY MOORE

WINONA, MS

\_\_\_\_\_  
Attorney

---

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, STATE OF MISSISSIPPI

CITY OF WINONA

APPELLEE

VS.

NO. 6177

LONNIE BLAYLOCK

APPELLANT

CITY OF WINONA

APPELLEE

VS.

NO. 6178

LONNIE BLAYLOCK

APPELLANT

O R D E R

This day the above styled and numbered cause came on for hearing upon the Defendant's Motion to Dismiss and Motion for Rehearing on Motion to Dismiss; to Vacate Previous Order; and for Other Relief. The Court, having heard argument of counsel and being fully advised in the premises and after giving due consideration to said Motions, finds that said Motions are not well taken and should be overruled.

The Court further finds that said Defendant should be granted leave of this Court in order to perfect his Appeal to the Supreme Court. The Court further finds that said Defendant should enter into a Cost Bond in the sum of \$500.00 and that said Appeal is allowed without the necessity of entering into any Appearance Bond. Further, the Court finds that while said Appeal is pending the previous Order of this Court awarding a Writ of Procedendo shall be held in abeyance.

IT IS, THEREFORE, ORDERED AND ADJUDGED that said Motions are overruled; that leave of Court is hereby granted in order that said Defendant may perfect his Appeal; that he shall enter into a Cost Bond in the amount of \$500.00 for said Appeal;

**FILED**

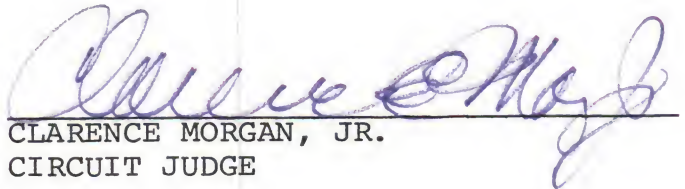
NOV 14 1977

*Mrs. Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK

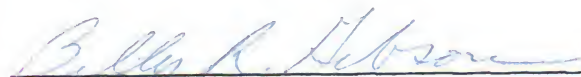


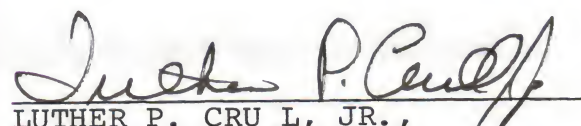
and that the Writ of Procendendo previously issued under authority of this Court is hereby held in abeyance for the duration of said Appeal.

SO ORDERED AND ADJUDGED this the 28th day of October, A.D., 1977.

  
CLARENCE MORGAN, JR.  
CIRCUIT JUDGE

APPROVED AS TO FORM:

  
BILLY R. GIBSON,  
ATTORNEY FOR DEFENDANT

  
LUTHER P. CRU L, JR.,  
ATTORNEY FOR PLAINTIFF

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI  
REGULAR APRIL, 1979, TERM

CITY OF WINONA

PLAINTIFF

VS.

NO. 6177

LONNIE BLAYLOCK

DEFENDANT

ORDER CONTINUING CAUSE

THIS DAY this Cause came on to be heard upon Motion of the Defendant, by and through his Attorney of Record, for a continuance in this Cause, and the City of Winona being present, and represented by its Counsel of Record, and offering no objection, it is:

ORDERED

That this Cause is continued until the next regular term of this Court.

So ordered and adjudged on this the 18 day of April, A.D., 1979.

*Niles McNeil*  
CIRCUIT JUDGE

**FILED**

*APR 18 1979*  
*Mae E. Mortimer*  
MRS. MAE E. MORTIMER  
CIRCUIT CLERK  
*Dina Ryals* D.C.

CITY OF WINONA

~~STATE OF MISSISSIPPI~~

VS.

NO. 6177

JUDGMENT

LONNIE BLAYLOCK

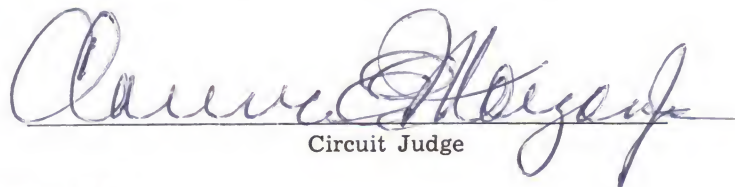
This day into open Court came the ~~District~~ City of Winona Attorney who prosecutes for the ~~State of Mississippi~~ and came also LONNIE BLAYLOCK in his own proper person and represented by counsel and was lawfully arraigned upon an affidavit charging the said defendant with the misdemeanor of PUBLIC DRUNK, to which he entered a plea of guilty.

Therefore, for said offence and on said plea of guilty it is by the Court ORDERED and ADJUDGED that the said LONNIE BLAYLOCK

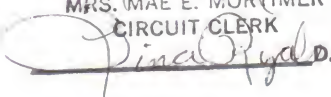
be and he is hereby sentenced to ~~serve a term of ----- days in the County Jail and to~~ pay a fine of \$ 100.00 and all costs of Court, ~~and the said defendant is now remanded into the custody of the Sheriff until said fine and costs are paid and said days are served.~~

So Ordered and Adjudged in open Court, this the 15th day of

OCTOBER, 19 79.

  
Circuit Judge

FILED

OCT 17 1979  
Mae E. Mortimer  
MRS. MAE E. MORTIMER  
CIRCUIT CLERK  
 D. C.

January 24, 1978

Mr. Billy R. Gibson, Attorney  
P.O. Box 355  
Bruce, Miss. 38915

Dear Mr. Gibson:

We have the transcript ready on the appeal cases #6176, #6177, and #6178 - City of Winona versus Blaylock & McNeer. If you wish to check this transcript, please notify us immediately; otherwise, we will mail it to the Supreme Court on Friday of this week.

Sincerely,

Mae E. Mortimer  
Circuit Clerk



STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

WRIT OF PROCEDENDO

TO THE SHERIFF OF MONTGOMERY COUNTY, MISSISSIPPI:

WHEREAS, on the 10th day of October, A.D., 1977, the Circuit Court of Montgomery County, Mississippi, did sustain a motion to dismiss appeal in that certain cause styled "City of Winona, Plaintiff, Versus Lonnie Blaylock, Defendant", being Cause No. 6177 before the Circuit Court of Montgomery County, Mississippi, and ordered therein that a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, authorizing it to proceed with the execution of the sentence of said Municipal Court. Therefore, you are hereby commanded to serve this Writ upon Honorable John Emmett Ellis, Jr., Police Justice of the Municipal Court of the City of Winona, Mississippi, advising him that the appeal by Lonnie Blaylock from the conviction of the misdemeanor crime of public drunk before the Municipal Court of the City of Winona, Mississippi, on October 14, 1976, has been dismissed and authorizing him to proceed with the execution of the sentence of said Municipal Court.

WITNESS the hand of the Clerk of the Circuit Court of Montgomery County, Mississippi, on this the 13<sup>th</sup> day of October, A.D., 1977.

Mae E. Mortimer  
MAE MORTIMER, CIRCUIT CLERK

# AFFIDAVIT

STATE OF MISSISSIPPI, }

CITY OF WINONA  
MONTGOMERY COUNTY }

Before me Gary Moore Mayor of City of Winona, Mississippi,  
of the County and State aforesaid John Johnson  
makes affidavit that Honnie Bhaylock on or about the 9th day of  
October 1976 in the County and State aforesaid, and in said City of Winona, Mississippi  
did then and there, wilfully and unlawfully be drunk in a

public place, to-wit: El Cero's Cafe,  
in the presence of two (2) or more  
persons in violation of Miss. Code of  
1972, Ann., § 97-29-47

By consent of the Court this charge  
has been appealed to Circuit Court of  
Montgomery County Miss. This the 22nd  
of October 1976 against the peace and dignity of the State of Mississippi.  
su

Sworn to and subscribed before me, this the

13

day of

October

1976

Gary Moore  
Mayor of City of Winona, Mississippi

~~Paid \$ 50.00 10/14/76 Jmr~~



# MAYOR'S DOCKET

CRIMINAL CASES

CITY OF WINONA, MISS.

City of Winona

Case No. 20

vs.

Defendant charged with

Louise Blaylock

Public Drunk - Possessing Gun

Affidavit made by William M. Wilson

10-8 1976

Kind of Process

When Issued

When Returnable

To Whom Directed

Witnesses for Plaintiff

Witnesses for Defense

Officers Return

on \_\_\_\_\_  
I have this day  
**EXECUTED**  
the within writ by arresting the  
defendant and bringing him into  
Court, this the \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_

Attorney for Plaintiff

Attorney for Defendant

Chief of Police

**FILED**

MAR 23 1977

Mae E. Mortimer

MRS. MAE E. MORTIMER  
CIRCUIT CLERK

Lina Ryals

D.C.

came on for hearing and the defendant Louise  
on being arraigned pleaded  
guilty to the charge preferred against him, to wit, Public Drunk  
Possessing Gun and the court having duly considered the matter

it is hereby ordered that said defendant be and is sentenced to pay a fine of \$ 50.00  
and said defendant having paid said fine it is further ordered that he go hence without  
further delay. Ordered, adjudged and decreed this the 14 day of Oct, 1976

Gay Moore  
Mayor

Received \_\_\_\_\_ on \_\_\_\_\_  
(Amount) (Date)

Other Disposition \_\_\_\_\_

Sent papers to Circuit Court 3-23-77



**Request for Subpoenas**

Date April 19, 1977

City of Winona  
Plaintiff

vs. No.

Lonnie Blayhock # 6177  
Defendant

Please issue Subpoenas for the below listed witnesses to appear in Circuit-County Court  
at 1:00 o'clock <sup>P.</sup>A.M. on Wednesday the 20<sup>th</sup> day of April A.D. 19 77,  
to testify in behalf of plaintiff-defendant.

| Name                 | Address |
|----------------------|---------|
| <u>Harvey Putnam</u> |         |
|                      |         |
|                      |         |
|                      |         |
|                      |         |
|                      |         |
|                      |         |
|                      |         |

Justin P. Cull  
Attorney



# SUBPOENA

#6177

## THE STATE OF MISSISSIPPI, Montgomery County

TO THE SHERIFF OF MONTGOMERY COUNTY — GREETINGS:

You are commanded to summon

*Harvey Putman*

if to be found in your county, to be and personally appear before the Judge of our Circuit Court next to be holden in and for said county of Montgomery at the Court House thereof in the town of Winona, on the ~~SECOND Monday~~ *Third Wednesday April 20*, 19 *77*, on the *9th* day of said term and remain from day to day and from term to term, and not to depart hence until released by due course of law, to give evidence in a certain cause in said court pending, wherein

*City of Winona*

is plaintiff

*Lennie Blaylock*

is defendant, on the part of *City of Winona*

and this he shall by no means omit, under penalty and forfeiture of One Hundred Dollars, as well as the consequences.

Herein fail not, and have then and there this writ.

WITNESS my hand and seal of said court this *19th* day of *April* A. D., 19 *77*

*Mae E. Hodimer* Clerk  
By *Tina Ryab* D. C.

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

PLAINTIFF

VERSUS

NO. 6177

LONNIE BLAYLOCK

DEFENDANT

MOTION TO DISMISS APPEAL  
AND  
AWARD OF A WRIT OF PROCEDENDO

Comes now City of Winona, plaintiff in the above-styled and numbered cause, and respectfully moves the Court to dismiss the appeal and award a writ of procedendo, and in support thereof would respectfully show unto the Court the following facts, to-wit:

I

The defendant, Lonnie Blaylock, was on the 14th day of October, A.D., 1976, convicted of the misdemeanor crime of public drunk in the Municipal Court of the City of Winona, Mississippi, and was sentenced to pay a fine of \$50.00.

II

That the defendant failed to properly perfect his appeal to this Honorable Court pursuant to the terms and provisions of Miss. Code, 1972, Ann., §§99-35-1 and 99-35-3, in that the Bond to Appeal before this Court on the second Monday of April, A.D., 1977, was not executed by sufficient resident sureties within forty (40) days from the said date of conviction.

WHEREFORE, PREMISES CONSIDERED, the City of Winona respectfully moves the Court to enter its Order dismissing the appeal filed herein and awarding a writ of procedendo notifying the Municipal Court of the City of Winona that the appeal has been dismissed and authorizing it to proceed with the execution of the sentence of said Municipal Court.

Respectfully submitted:

Luther P. Crull, Jr.  
LUTHER P. CRULL, JR.  
CITY PROSECUTOR FOR THE CITY  
OF WINONA, MISSISSIPPI

CERTIFICATE OF SERVICE

I, Luther P. Crull, Jr., City Prosecutor for the City of Winona, Mississippi, do hereby certify that I have this day mailed, via United States Mail, postage prepaid, a true and correct copy of the above and foregoing Motion to Dismiss Appeal and Award of a Writ of Procedendo unto Honorable Billy R. Gibson, attorney for the defendant herein, at his usual mailing address being P. O. Box 355, Bruce, Mississippi 38915.

This the 20<sup>th</sup> day of April, A.D., 1977.

Luther P. Crull, Jr.  
LUTHER P. CRULL, JR.

**FILED**  
APR 20 1977  
*Mae Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK



IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA  
VERSUS  
LONNIE BLAYLOCK

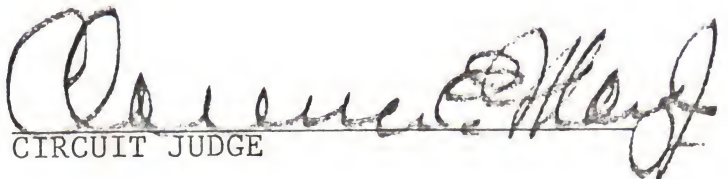
PLAINTIFF  
NO. 6177  
DEFENDANT

ORDER

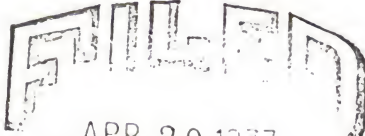
This day came on to be heard on motion of the defendant, by and through his attorney of record, for a continuance of the hearing on the motion to dismiss appeal and awarding of writ of procedendo filed herein by the plaintiff, and the Court being advised that the defendant and a vital witness <sup>are</sup> ~~is~~ in the hospital, and after having maturely considered the same finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the hearing on the motion to dismiss appeal and award of writ of procedendo be, and the same is hereby, continued until 1:00 o'clock P.M. on Monday, October 10, 1977, at the courtroom of the Montgomery County Courthouse in Winona, Mississippi.

SO ORDERED AND ADJUDGED on this the 20<sup>th</sup> day of April, A.D., 1977.

  
CIRCUIT JUDGE

A CERTIFIED TRUE COPY  
*Mae E. Mortimer*  
CIRCUIT CLERK  
by *Dina Ryals, W.C.*

  
APR 20 1977  
*Mae E. Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK  
by *Dina Ryals, W.C.*

Request for Subpoenas

Date \_\_\_\_\_

City of Winona  
Plaintiff

vs. No. 6177

Lonnie Blaylock  
Defendant

Please issue Subpoenas for the below listed witnesses to appear in Circuit-County Court  
at 1 o'clock P.M. on Monday the 10<sup>th</sup> day of October A.D. 1977,  
to testify in behalf of plaintiff-defendant.

Name

Address

Harvey Putnam

Winona, Miss

Gary Moore

Winona, Miss.

John P. Cull  
Attorney

SUBPOENA INSTANTER

The State of Mississippi,  
Montgomery County

Circuit Court

#6177

TO THE SHERIFF OF MONTGOMERY COUNTY—GREETING:

We command you to summon.....

*Dary Moore*

if to be found in your county, personally to be and appear before the Judge of our Circuit Court  
now in session for said county, at the Court House in the town of Winona, instanter, and to at-  
tend from day to day until discharged by due course of law, then and there to give evidence in  
behalf of the.....in a certain cause therein pending  
wherein.....plaintiff  
and.....defendant

*Appellate*  
*City of Winona*  
*Louis Blaylock*

Herein fail not under penalty prescribed by law.

WITNESS my hand and seal of said Court at Winona, Mississippi, this the.....day  
of.....1937, the same being the date of issuance thereof.

*October*

*77 @ 10m*

*Mac E. Mortimer*

Clerk

By.....D. C.



IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

PLAINTIFF

VERSUS

NO. 6177

LONNIE BLAYLOCK

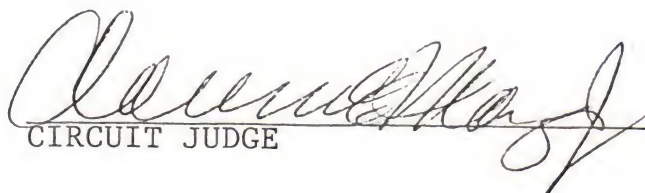
DEFENDANT

ORDER

This day came on to be heard on the motion of the City of Winona, plaintiff in the above-styled and numbered cause, to dismiss appeal and award a Writ of Procedendo and the Court, after determining that the defendant appeared personally and with counsel and after having heard proof in Open Court, argument of counsel, and after having maturely considered the same, finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the appeal in the above-styled and numbered cause be, and the same is hereby, dismissed and a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, advising that the appeal herein has been dismissed and authorizing it to proceed with the execution of the sentence of said Municipal Court.


SO ORDERED AND ADJUDGED In Term on this the 13<sup>th</sup> day of October, A.D., 1977.

  
CIRCUIT JUDGE

A CERTIFIED TRUE COPY

Mae E. Mortimer  
CIRCUIT CLERK

by Dina Ryals, M.C.

  
OCT 13 1977  
Mae E. Mortimer  
MRS. MAE MORTIMER  
CIRCUIT CLERK

STATE OF MISSISSIPPI  
MONTGOMERY COUNTY } IN CIRCUIT COURT

## THE STATE OF MISSISSIPPI

No 123

Case No. 6178

VERSUS

Lennie Blylock

Sentenced the \_\_\_\_\_ day of \_\_\_\_\_, A. D., 19\_\_

| FEES OF  | Clerk  |      |
|--|--------|------|
| (a) For docketing cause                                      | \$1 00 | 3 00 |
| (b) For each writ other than subpoena                        | 1 50   | 1 50 |
| (c) Arraigning prisoner and entering plea                    | 75c    |      |
| (d) Taking recognizance on bond                              | 1 00   |      |
| (e) Entering surrender of prisoner by bail                   | 25c    |      |
| (f) Swearing and impaneling jury                             | 50c    |      |
| (g) Entering verdict of judgment                             | 50c    |      |
| (h) Swearing each witness                                    | 10c    | 50   |
| (i) For each subpoena with one name                          | 1 00   |      |
| (j) Each additional name inserted                            | 10c    |      |
| (k) Each (motion) and (order) thereon                        | 1 00   | 3 00 |
| (l) Special venire in capital case                           | 1 00   |      |
| (m) All copies of papers, for every hundred words            | 25c    |      |
| (n) Filing and marking each paper not otherwise provided for | 10c    | 70   |
| (o) Issuing each certificate to witness                      | 25c    |      |
| (p) Recording each indictment                                | 1 00   |      |
| Affidavit  | 50c    | 50   |
| (q) Taxing costs   | 50c    | 50   |
| (r) Filing instructions in criminal case                     | 1 00   |      |
| (s) Certified copy of sentence                               | 1 50   |      |
| Recording return on writ                                     | 25c    | 25   |
| Entering each continuance                                    | 50c    | 1 00 |

Total \$ 10 95

|   |    |
|---|----|
| Jury Tax  | \$ |
| Stenographer's Fee                              |    |
| Fees of County Attorney                         |    |
| Fine (see judgment of Court, Minute Book page ) |    |
| Total   | \$ |

## COSTS IN JUSTICE OF PEACE COURT

(For items and references to law authorizing same, see Justice Bill of Costs which is made a part hereof.)

|   |                          |    |
|---|--------------------------|----|
| Fees of   | J. P.                    | \$ |
| Fees of   | Constable                |    |
| Fees of   | Sheriff (in J. P. Court) |    |
| Total amount due jurors in J. P. Court                              |                          |    |
| Total fees of witnesses for the State of Mississippi in J. P. Court |                          |    |
| Total fees of witnesses for defendant in J. P. Court                |                          |    |
| Total costs in J. P. Court  | \$                       |    |

| FEES OF   | Sheriff |      |
|---|---------|------|
| C Serving capias on defendant   | \$1 50  | 2 00 |
| F Entering writ in office   | @ 25c   |      |
| G Returning Writ  | @ 25c   |      |
| H Taking bail bond  | @ 50c   |      |
| I Summoning witness   | @ 50c   |      |
| L Taking bond other than bail bond  | @ 50c   |      |
| M Impaneling jury   | @ 20c   |      |
| N Executing special venire facias on juror  | @ 10c   |      |
| O Serving scire facias on defendant (not excused juror)                           | @ 1 50  |      |
| P Serving persons with summons or citation not herein provided for                | @ 50c   |      |
| Q Serving Capias pro finem on defendant and commitment                            | @ 1 50  |      |
| R Serving attachment for contempt and return                                      | @ 1 50  |      |
| T Summoning jury on any inquisition in the county, attending, taking inquest days | @ 5 00  |      |
| U Attending prisoner on habeas corpus trial days in vacation                      | @ 5 00  |      |
| V commitment (not elsewhere charged)  | @ 1 00  |      |
| Victualing prisoner days  | @       |      |
| Conveying Criminal to jail Miles @ 10c per mile                                   |         |      |
| Total   | \$      | 7 00 |

## FEES OF OTHER SHERIFFS OR OFFICERS

(For fees of witnesses in Circuit Court and references to law authorizing same, see Code of 1942.)

|  |                |       |       |
|--|----------------|-------|-------|
| FEES OF  | RECAPITULATION | Clerk | \$    |
| Jury tax   |                |       | 10 95 |
| Total costs in J. P. Court                             |                |       |       |
| Fees of  |                |       |       |
| Fees of  |                |       | 7 00  |
| Fees of  |                |       |       |
| Total fees of witnesses for the State in Circuit Court |                |       |       |
| Total fees of witnesses for defendant in Circuit Court |                |       |       |
| Total Costs  |                |       | 17 95 |
| Fine   |                |       |       |
| GRAND TOTAL  |                |       | 17 95 |

## NAMES AND FEES OF WITNESSES IN CIRCUIT COURT

(See Mississippi Code, 1942)

| WITNESSES FOR THE STATE | WITNESSES FOR DEFENDANT |
|-------------------------|-------------------------|
| d. m. \$                | d. m. \$                |
| d. m.                   | d. m.                   |
| d. m.                   | d. m.                   |
| d. m.                   | d. m.                   |
| d. m.                   | d. m.                   |
| d. m.                   | d. m.                   |
| d. m.                   | d. m.                   |
| d. m.                   | d. m.                   |
| Total for State         | Total for Defendant     |

I certify that the foregoing is a true Bill of Costs and statement of Fines in the above styled case, this the 14th day of October, A. D., 19\_\_

By Mae E. Mortimer, Circuit Clerk  
Dina R. Gools, Deputy Clerk

\$ \_\_\_\_\_ Received of \_\_\_\_\_ the sum of \_\_\_\_\_ Dollars, in full payment of the fine and all costs in the above styled case. This the \_\_\_\_\_ day of \_\_\_\_\_, A. D., 19\_\_

By \_\_\_\_\_, Circuit Clerk  
 D. C.



IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA  
VERSUS  
LONNIE BLAYLOCK

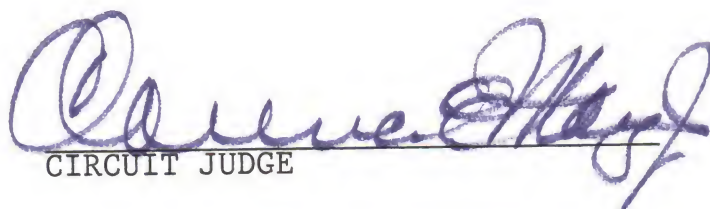
PLAINTIFF  
NO. 6178  
DEFENDANT

ORDER

This day came on to be heard on motion of the defendant, by and through his attorney of record, for a continuance of the hearing on the motion to dismiss appeal and awarding of writ of procedendo filed herein by the plaintiff, and the Court being advised that the defendant and a vital witness to be called by the defendant at the hearing of this matter <sup>are</sup> ~~is~~ in the hospital, and after having maturely considered the same finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the hearing on the motion to dismiss appeal and award of writ of procedendo be, and the same is hereby, continued until 1:00 o'clock P.M. on Monday, October 10, 1977, at the courtroom of the Montgomery County Courthouse in Winona, Mississippi.

SO ORDERED AND ADJUDGED on this the 20<sup>d</sup> day of April, A.D., 1977.

  
CIRCUIT JUDGE

**FILED**  
APR 20 1977  
Mae E. Mortimer  
MRS. MAE MORTIMER  
CIRCUIT CLERK  
by Tina Ryals, n.c.

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA  
VERSUS  
LONNIE BLAYLOCK

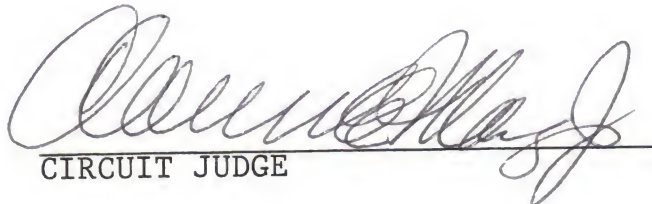
PLAINTIFF  
NO. 6178  
DEFENDANT

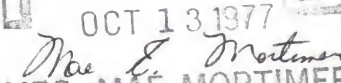
ORDER

This day came on to be heard on the motion of the City of Winona, plaintiff in the above-styled and numbered cause, to dismiss appeal and award a Writ of Procedendo and the Court, after determining that the defendant appeared personally and with counsel and after having heard proof in Open Court, argument of counsel, and after having maturely considered the same, finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the appeal in the above-styled and numbered cause be, and the same is hereby, dismissed and a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, advising that the appeal herein has been dismissed and authorizing it to proceed with the execution of the sentence of said Municipal Court.

SO ORDERED AND ADJUDGED In Term on this the 13<sup>th</sup> day of October, A.D., 1977.

  
CIRCUIT JUDGE

**FILED**  
OCT 13 1977  
  
MRS. MAE MORTIMER  
CIRCUIT CLERK

STATE OF MISSISSIPPI  
COUNTY OF MONTGOMERY

WRIT OF PROCEDENDO

TO THE SHERIFF OF MONTGOMERY COUNTY, MISSISSIPPI:

WHEREAS, on the 10th day of October, A.D., 1977, the Circuit Court of Montgomery County, Mississippi, did sustain a motion to dismiss appeal in that certain cause styled "City of Winona, Plaintiff, Versus Lonnie Blaylock, Defendant", being Cause No. 6178 before the Circuit Court of Montgomery County, Mississippi, and ordered therein that a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, authorizing it to proceed with the execution of the sentence of said Municipal Court. Therefore, you are hereby commanded to serve this Writ upon Honorable John Emmett Ellis, Jr., Police Justice of the Municipal Court of the City of Winona, Mississippi, advising him that the appeal by Lonnie Blaylock from the conviction of the misdemeanor crime of resisting arrest before the Municipal Court of the City of Winona, Mississippi, on October 14, 1976, has been dismissed and authorizing him to proceed with the execution of the sentence of said Municipal Court.

WITNESS the hand of the Clerk of the Circuit Court of Montgomery County, Mississippi, on this the 13<sup>th</sup> day of October, A.D., 1977.

*Mae E. Mortimer*  
\_\_\_\_\_  
MAE MORTIMER, CIRCUIT CLERK

**FILED**  
OCT 17 1977  
*Mae E. Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK



IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA

APPELLEE

VERSUS

NO. 6178

LONNIE BLAYLOCK

APPELLANT

MOTION FOR REHEARING ON MOTION TO DISMISS;  
TO VACATE PREVIOUS ORDER;  
AND FOR OTHER RELIEF

Comes now, BILLY R. GIBSON, one of the attorneys of record for Appellant, LONNIE BLAYLOCK, in the above styled and numbered cause, which was an appellate case from the Municipal Court of the City of Winona, Montgomery County, Mississippi, in order to review the decision rendered therein and in support respectfully shows as follows, to-wit:

- (a) The Circuit Court erred in holding that a good and sufficient bond had not been approved by the Municipal Judge on October 22, 1976.
- (b) The Circuit Judge erred in not holding that LONNIE BLAYLOCK and HERBERT McNEER served as sureties for each other.
- (c) The Circuit Judge erred in not holding that a Surety Bond signed by the Respondent personally, even without any other surety, if approved by the Municipal Judge was sufficient.
- (d) The Circuit Judge erred in holding that an Appellant Bond which is secured by the signature of the Appellant, LONNIE BLAYLOCK, and further by the signature of HERBERT L. McNEER and in addition thereto was secured by a cash sum held on deposit deemed sufficient by the Municipal Judge was, in fact, valid.
- (e) The Court erred in holding that the Municipal Judge does not have authority in his own Court, a Constitutional Court,

to approve Appellant's Bonds and the surety therefor.

(f) The Court erred in not allowing the Appeal inasmuch as all proof showed that LONNIE L. BLAYLOCK intended to perfect an Appeal, took all action thought by him necessary to perfect an Appeal as advised by the Municipal Judge, and that the said LONNIE BLAYLOCK relied fully on said advice, and took all action recommended to him by said Municipal Judge.

(g) That other causes to be shown at the hearing hereon.

WHEREFORE, premises considered, Movant LONNIE BLAYLOCK prays that the Court will reopen and reconsider the Motion to Dismiss previously filed and ruled on herein and upon the conclusion of argument will vacate its former Order and reinstate Appellant LONNIE BLAYLOCK'S Appeal. Alternatively, Appellant LONNIE BLAYLOCK moves that he be allowed to appeal this decision to the Supreme Court of the State of Mississippi upon his making a sufficient Cost Bond, if required, and that the Writ of Procedendo ordered by the Court will be held in abeyance pending the outcome of said Appeal, upon, the said LONNIE BLAYLOCK making a bond in a sum to be approved by the Court.

RESPECTFULLY SUBMITTED on this the 20<sup>th</sup> day of October, A.D., 1977.

LONNIE BLAYLOCK

BY:

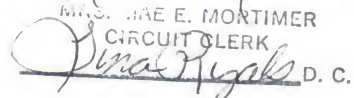
  
BILLY R. GIBSON  
ATTORNEY FOR APPELLANT

**FILED**

OCT 20 1977

  
MAE E. MORTIMER

CIRCUIT CLERK

  
D. C.



CERTIFICATE

I, BILLY R. GIBSON, attorney for the Appellant, LONNIE BLAYLOCK, do hereby certify that I have delivered a true and correct copy of the above and foregoing Motion to Honorable LUTHER P. CRULL, JR., Attorney at Law, P.O. Box No. 645, Winona, Mississippi, 38976, Attorney for the City of Winona.

This the 20<sup>st</sup> day of October, A.D., 1977

Billy R. Gibson  
BILLY R. GIBSON

**FILED**

OCT 20 1977  
Mae E. Mortimer  
MRS. MAE E. MORTIMER  
CIRCUIT CLERK  
David R. Ryles D.C.

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI  
REGULAR APRIL, 1979, TERM

CITY OF WINONA

PLAINTIFF

VS.

NO. 6178

LONNIE BLAYLOCK

DEFENDANT

ORDER CONTINUING CAUSE

THIS DAY this Cause came on to be heard upon Motion of the Defendant by and through his Attorney of Record for a continuance in this Cause, and the City of Winona being present, and represented by its Counsel of Record, and offering no objection, it is:

ORDERED

That this Cause is continued until the next regular term of this Court.

So ordered and adjudged on this the 18 day of April, A.D., 1979.

Niles McNeil  
CIRCUIT JUDGE

**FILED**

APR 18 1979  
Mae E. Mortimer  
MRS. MAE E. MORTIMER  
CIRCUIT CLERK  
Vina Lyons D. C.

IN THE CIRCUIT COURT OF

MONTGOMERY COUNTY,

STATE OF MISSISSIPPI

OCTOBER TERM, 1979

CITY OF WINONA

VS.

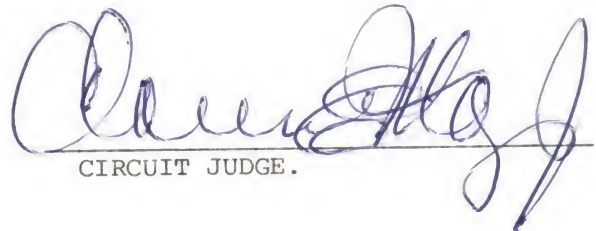
CAUSE NO. 6178

LONNIE BLAYLOCK

ORDER OF DISMISSAL

Upon motion of the CITY OF WINONA, the within  
matter is hereby dismissed.

So Ordered on this, the 18th day of OCTOBER, 1979.

  
CIRCUIT JUDGE.

**FILED**

OCT 18 1979

*Mae E. Mortimer*  
MRS. MAE E. MORTIMER  
CIRCUIT CLERK

                     D. C.

GIBSON & NEWLIN  
COUNSELORS AT LAW  
SOUTH NEWBURGER STREET  
BRUCE, MISSISSIPPI 38915

BILLY R. GIBSON  
DONALD F. NEWLIN

January 24, 1978

Ms. Mae Mortimer  
Circuit Clerk  
Montgomery County Courthouse  
Winona, Mississippi 38967

Re: City of Winona vs. McNeer & Blaylock  
No's 6176, 6177, and 6178

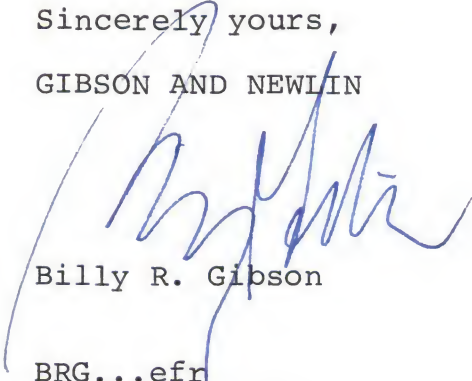
Dear Madam,

I would appreciate you mailing me copies of the transcription of the court reporter in the above captioned cause. After we have examined same, we will return to you.

Thanking you, I remain

Sincerely yours,

GIBSON AND NEWLIN



Billy R. Gibson

BRG...efn



STATE OF MISSISSIPPI


COUNTY OF MONTGOMERY

WRIT OF PROCEDENDO

TO THE SHERIFF OF MONTGOMERY COUNTY, MISSISSIPPI:

WHEREAS, on the 10th day of October, A.D., 1977, the Circuit Court of Montgomery County, Mississippi, did sustain a motion to dismiss appeal in that certain cause styled "City of Winona, Plaintiff, Versus Lonnie Blaylock, Defendant", being Cause No. 6178 before the Circuit Court of Montgomery County, Mississippi, and ordered therein that a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, authorizing it to proceed with the execution of the sentence of said Municipal Court. Therefore, you are hereby commanded to serve this Writ upon Honorable John Emmett Ellis, Jr., Police Justice of the Municipal Court of the City of Winona, Mississippi, advising him that the appeal by Lonnie Blaylock from the conviction of the misdemeanor crime of resisting arrest before the Municipal Court of the City of Winona, Mississippi, on October 14, 1976, has been dismissed and authorizing him to proceed with the execution of the sentence of said Municipal Court.

WITNESS the hand of the Clerk of the Circuit Court of Montgomery County, Mississippi, on this the 13<sup>th</sup> day of October, A.D., 1977.

  
MAE MORTIMER, CIRCUIT CLERK

20

# WARRANT

STATE OF MISSISSIPPI, }

CITY OF WINONA  
MONTGOMERY COUNTY }

To Any Lawful Officer of the City of Winona:

We command you forthwith to take the body of Lonnie Blaylock  
and bring him before the undersigned, Mayor of City of Winona, Montgomery County, Mississippi,  
to answer said City on a charge of Resisting arrest

Witness my hand this 13 day of October 1976

Gary Moore  
Mayor of City of Winona, Mississippi

I have this day executed this warrant by arresting and bringing into court the within named

Lonnie Blaylock  
This the 13 day of OCT 1976  
Malven Carter  
Chief of Police

21  
20

# AFFIDAVIT

STATE OF MISSISSIPPI, }

CITY OF WINONA  
MONTGOMERY COUNTY }

Before me Gary Moore Mayor of City of Winona, Mississippi,  
of the County and State aforesaid John Johnson

makes affidavit that HONNIE BLAYLOCK on or about the 9<sup>th</sup> day of  
October 1976 in the County and State aforesaid, and in said City of Winona, Mississippi

did then and there, wilfully and unlawfully Resist by force the

lawful arrest of his person by Lt.

John Johnson, a Municipal policeman

of and for the City of Winona, Miss.

in violation of Miss. Code of 1972, Ann. § 97-9-73

appealed to Circuit Court

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ against the peace and dignity of the State of Mississippi.

Sworn to and subscribed before me, this the 13 day of October 1976

John M. Johnson  
Gary Moore  
Mayor of City of Winona, Mississippi



POLICE REPORT

Name LONNIE Blaylock W/m DOB 3-10-43

Address WINONA MS (FERGUSON Apt)

Date 10-9-76 Time 1:30 A.M.

Nature of Complaint Subject came in EL CERO's Cafe  
Staggering, Smelling of Liquor, & Slurring  
Speech. Subject said in the Presents  
of Lt Johnson & Ptn MARLOW, He was  
Drunk. Placed Subject under ARREST when  
He came out of the Building. Subject  
FORCEABLY Resisted ARREST.  
Lt. Johnson & Ptn MARLOW

Police on Duty

CARRIED Subject to Hospital & Had him Checked  
Charged with (1.) Public Drunk & Resisting Arrest



Nº 012

# MAYOR'S DOCKET

CRIMINAL CASES

CITY OF WINONA, MISS.

City of Winona

Case No. 21

vs. Lorne Blaislock Defendant charged with Resisting Arrest (Warrant)  
 Affidavit made by Carter 10-13 1976

Kind of Process When Issued When Returnable To Whom Directed

Witnesses for Plaintiff

Witnesses for Defense

Officers Return

on \_\_\_\_\_  
 I have this day  
 EXECUTED  
 the within writ by arresting the  
 defendant and bringing him into  
 Court, this the \_\_\_\_\_  
 day of \_\_\_\_\_ 19 \_\_\_\_\_

**FILED**

MAR 23 1977

Mae E. Mortimer  
 MRS. MAE E. MORTIMER  
 CIRCUIT CLERK

Dina Ryals

To: C. day this cause came on for hearing, and the defendant Lorne

Blaislock on being arraigned pleaded  
 guilty to the charge preferred against him, to wit, Resisting  
Arrest

and the court having duly considered the matter,  
 it is hereby ordered that said defendant be and is sentenced to pay a fine of \$ 100.00  
 and said defendant having paid said fine it is further ordered that he go hence without  
 further delay. Ordered, adjudged and decreed this the 14 day of Oct, 19 76

Raymond  
 Mayor

Received \_\_\_\_\_ on \_\_\_\_\_  
 (Amount) (Date)

Other Disposition

Sent papers to Circuit Court

3-23-77



IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA  
VERSUS  
LONNIE BLAYLOCK

PLAINTIFF  
NO. 6178  
DEFENDANT

MOTION TO DISMISS APPEAL  
AND  
AWARD OF A WRIT OF PROCEDENDO

Comes now City of Winona, plaintiff in the above-styled and numbered cause, and respectfully moves the Court to dismiss the appeal and award a writ of procedendo, and in support thereof would respectfully show unto the Court the following facts, to-wit:

I

The defendant, Lonnie Blaylock, was on the 14th day of October, A.D., 1976, convicted of the misdemeanor crime of resisting arrest in the Municipal Court of the City of Winona, Mississippi, and was sentenced to pay a fine of \$100.00.

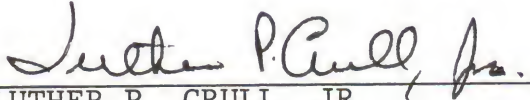
II

That the defendant failed to properly perfect his appeal to this Honorable Court pursuant to the terms and provisions of Miss. Code, 1972, Ann., §§99-35-1 and 99-35-3, in that the Bond to Appeal before this Court on the second Monday of April, A.D., 1977, was not executed by sufficient resident sureties within forty (40) days from the said date of conviction.

WHEREFORE, PREMISES CONSIDERED, the City of Winona

respectfully moves the Court to enter its Order dismissing the appeal filed herein and awarding a writ of procedendo notifying the Municipal Court of the City of Winona that the appeal has been dismissed and authorizing it to proceed with the execution of the sentence of said Municipal Court.

Respectfully submitted:

  
\_\_\_\_\_  
LUTHER P. CRULL, JR.  
CITY PROSECUTOR FOR THE CITY  
OF WINONA, MISSISSIPPI

  
APR 20 1977  
  
MRS. MAE MORTIMER  
CIRCUIT CLERK

CERTIFICATE OF SERVICE

I, Luther P. Crull, Jr., City Prosecutor for the City of Winona, Mississippi, do hereby certify that I have this day mailed, via United States Mail, postage prepaid, a true and correct copy of the above and foregoing Motion to Dismiss Appeal and Award of a Writ of Procedendo unto Honorable Billy R. Gibson, attorney for the defendant herein, at his usual mailing address being P. O. Box 355, Bruce, Mississippi 38915.

This the 20<sup>th</sup> day of April, A.D., 1977.

Luther P. Crull, Jr.  
LUTHER P. CRULL, JR.

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA  
VERSUS  
LONNIE BLAYLOCK

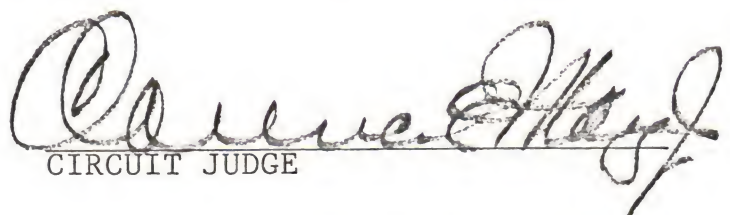
PLAINTIFF  
NO. 6178  
DEFENDANT


ORDER

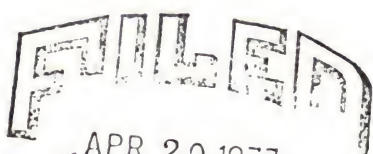
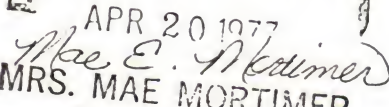
This day came on to be heard on motion of the defendant, by and through his attorney of record, for a continuance of the hearing on the motion to dismiss appeal and awarding of writ of procedendo filed herein by the plaintiff, and the Court being advised that the defendant and a vital witness to be called by the defendant at the hearing of this matter <sup>are</sup> ~~is~~ in the hospital, and after having maturely considered the same finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the hearing on the motion to dismiss appeal and award of writ of procedendo be, and the same is hereby, continued until 1:00 o'clock P.M. on Monday, October 10, 1977, at the courtroom of the Montgomery County Courthouse in Winona, Mississippi.

SO ORDERED AND ADJUDGED on this the 20<sup>th</sup> day of April, A.D., 1977.

  
CIRCUIT JUDGE

A CERTIFIED TRUE COPY  
  
CIRCUIT CLERK  
by Tina Ryals, u.c.

  
APR 20 1977  
  
MRS. MAE MORTIMER  
CIRCUIT CLERK  
by Tina Ryals, u.c.



IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, MISSISSIPPI

CITY OF WINONA  
VERSUS  
LONNIE BLAYLOCK

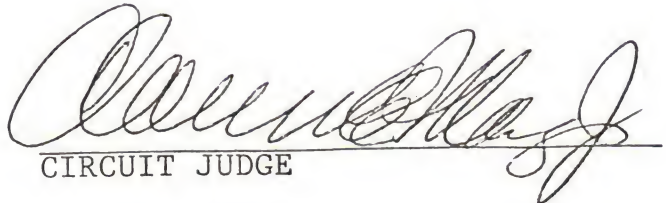
PLAINTIFF  
NO. 6178  
DEFENDANT

ORDER

This day came on to be heard on the motion of the City of Winona, plaintiff in the above-styled and numbered cause, to dismiss appeal and award a Writ of Procedendo and the Court, after determining that the defendant appeared personally and with counsel and after having heard proof in Open Court, argument of counsel, and after having maturely considered the same, finds that said motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the appeal in the above-styled and numbered cause be, and the same is hereby, dismissed and a Writ of Procedendo should issue to the Municipal Court of the City of Winona, Mississippi, advising that the appeal herein has been dismissed and authorizing it to proceed with the execution of the sentence of said Municipal Court.

SO ORDERED AND ADJUDGED In Term on this the 13<sup>th</sup> day of October, A.D., 1977.

  
CIRCUIT JUDGE

**FILED**  
OCT 13 1977  
*Mae E. Mortimer*  
MRS. MAE MORTIMER  
CIRCUIT CLERK

A CERTIFIED TRUE COPY  
*Mae E. Mortimer*  
CIRCUIT CLERK

*by Dina Ryals, R.C.*



COURT DATES  
SECOND MONDAY  
APRIL AND OCTOBER

*Mrs. Mae E. Mortimer*

CIRCUIT COURT CLERK  
MONTGOMERY COUNTY  
WINONA, MISSISSIPPI 38967

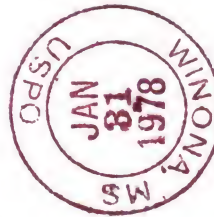
PHONE 283-4161

CLARENCE E. MORGAN, JR.  
CIRCUIT JUDGE

NILES MCNEEL  
DISTRICT ATTORNEY

LUTHER CRULL, JR.  
ASSISTANT DISTRICT ATTORNEY

This is to certify that 2 <sup>41</sup> was paid for postage on the  
transcript, State of Mississippi Vs. Herbert McNeer & Lonnie Blaylock.



*Jeffard*

This the 31st day of January, 1978.